

# **U.S. Sentencing Commission Preliminary Quarterly Data Report**



**4<sup>th</sup> Quarter Release  
Preliminary Fiscal Year 2010 Data  
Through September 30, 2010**

## Introduction

As part of its ongoing mission, the United States Sentencing Commission provides Congress, the judiciary, the executive branch, and the general public with data extracted and analyzed from sentencing documents submitted by courts to the Commission.<sup>1</sup> Data is reported on an annual basis in the Commission's *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.<sup>2</sup> After the Supreme Court's decision in *United States v. Booker* on January 12, 2005, which rendered the sentencing guidelines advisory instead of mandatory, many people expressed an interest in knowing what changes, if any, in federal sentencing practices would result. The Commission responded by reconfiguring its data collection, analysis, and reporting efforts to provide real-time data reporting from the submitted documents.

The Commission first reported data on February 10, 2005 to Congress<sup>3</sup> and began reporting data approximately monthly shortly thereafter. The types of data reported increased over time to accommodate various requests for the additional information. In March 2006, the Commission released a comprehensive report, *Final Report on the Impact of United States v. Booker on Federal Sentencing*,<sup>4</sup> based on cases sentenced one year since the *Booker* decision. Because the report included additional analyses that had not been included in the monthly reports, not all the data presented in the report was comparable with the monthly releases, which made comparing data over time difficult.

In an effort to standardize the Commission's post-*Booker* analyses and to facilitate the identification of emerging trends going forward, the Commission began generating a new set of tables and charts on a quarterly basis for public release on the Commission's website beginning with the third quarter of fiscal year 2006. These quarterly data reports are similar in format and methodology to tables and figures produced in the *Sourcebook* or in the Commission's *Booker* report. Some of the figures include data from fiscal years before the *Booker* decision to facilitate analysis of sentencing trends over time. Other figures and all of the tables contain cumulative data (*i.e.*, data from the start of the fiscal year through the most current quarter). Appendix B cross-references the quarterly table numbers and figure letters as well as the corresponding number or letter in the *Sourcebook* (if it exists in the *Sourcebook*) so that the quarterly data can

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<sup>1</sup> In each felony or Class A misdemeanor case sentenced in federal court, sentencing courts are required to submit the following documents to the Commission: the Judgment and Commitment Order, the Statement of Reasons, the plea agreement (if applicable), the indictment or other charging document, and the presentence report. See 28 U.S.C. § 994(w).

<sup>2</sup> See the Commission's website, [www.ussc.gov](http://www.ussc.gov), for electronic copies of the 1995-2009 *Annual Report* and *Sourcebook of Federal Sentencing Statistics*.

<sup>3</sup> See [www.ussc.gov/bf.htm](http://www.ussc.gov/bf.htm) for an electronic copy of the prepared testimony of Ricardo H. Hinojosa, chair of the United States Sentencing Commission, before the Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, United States House of Representatives, February 10, 2005.

<sup>4</sup> See [www.ussc.gov/bf.htm](http://www.ussc.gov/bf.htm) for an electronic copy of the Commission's *Final Report on the Impact of United States v. Booker on Federal Sentencing*.

be compared easily with data from prior fiscal years.<sup>5</sup> In Appendix A are descriptions of datafile and variable definitions.

Users of the quarterly releases are cautioned that the quarterly data are preliminary only and subject to change as the Commission collects, analyzes, and reports on additional cases throughout the fiscal year. When data for each new quarter is made available, the Commission will update the previous preliminary quarterly totals in the most recent release until the release of the final fiscal year data in the Commission's *Sourcebook*. For example, the data reported in the initial release for the second quarter of the fiscal year may change as the Commission receives and analyzes documents during the remaining quarters for additional cases sentenced during the second quarter.<sup>6</sup> Any subsequent changes in the quarterly data for the second quarter would be reflected initially in the subsequent quarterly releases and finally in the Commission's *Annual Report and Sourcebook of Federal Sentencing Statistics*. As a result, **quarterly data should not be considered final until publication of the Commission's *Annual Report and Sourcebook*.**

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<sup>5</sup> The Commission has tried to maintain the same table numbers and figure letters over the past several years but due to slight differences in reporting categories between pre- and post-*Booker* time periods, the numbers and letters may not correspond exactly over time. Please refer to the table of contents for each of the prior *Sourcebook* years to determine the corresponding table number or figure letter.

<sup>6</sup> The reasons for data changes in previous quarters is due to one or more of the following reasons: the courts have up to 30 days to submit court documents to the Commission; the Commission both extracts information from the documents and screens cases through the quality control procedures and does not include any case in a data release unless it has been fully entered and reviewed; some documents are sent in later than other documents and the datafiles are then updated with the new information; the Commission receives amended court documents and updates the datafile based on the new information; the Commission matches its datafile to datafiles from the Administrative Office of the United States Courts and requests any case documents not received - a process that can only be completed after the documents have been received and the information entered into the Commission's database. For all of the above reasons, data may be excluded/included or reported differently from one quarter to another.

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**NATIONAL COMPARISON OF SENTENCE IMPOSED AND  
POSITION RELATIVE TO THE GUIDELINE RANGE<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

	N	%
<b>TOTAL CASES</b>	<b>78,982</b>	<b>100.0</b>
<b>CASES SENTENCED WITHIN GUIDELINE RANGE</b>	<b>43,103</b>	<b>54.6</b>
<b>CASES SENTENCED ABOVE GUIDELINE RANGE</b>	<b>1,473</b>	<b>1.8</b>
<b>DEPARTURE ABOVE GUIDELINE RANGE</b>	<b>457</b>	<b>0.5</b>
Upward Departure From Guideline Range <sup>2</sup>	343	0.4
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	114	0.1
<b>OTHERWISE ABOVE GUIDELINE RANGE</b>	<b>1,016</b>	<b>1.3</b>
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	893	1.1
All Remaining Cases Above Guideline Range <sup>5</sup>	123	0.2
<b>GOVERNMENT SPONSORED BELOW RANGE<sup>6</sup></b>	<b>20,314</b>	<b>25.7</b>
§5K1.1 Substantial Assistance Departure	9,192	11.6
§5K3.1 Early Disposition Program Departure	7,998	10.1
Other Government Sponsored Below Range	3,124	4.0
<b>NON-GOVERNMENT SPONSORED BELOW RANGE</b>	<b>14,092</b>	<b>17.9</b>
<b>DEPARTURE BELOW GUIDELINE RANGE</b>	<b>2,458</b>	<b>3.2</b>
Downward Departure From Guideline Range <sup>2</sup>	1,623	2.1
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553 <sup>3</sup>	835	1.1
<b>OTHERWISE BELOW GUIDELINE RANGE</b>	<b>11,634</b>	<b>14.7</b>
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553 <sup>4</sup>	10,769	13.6
All Remaining Cases Below Guideline Range <sup>5</sup>	865	1.1

<sup>1</sup> This table reflects the 80,854 cases sentenced on or after October 1, 2009, with court documentation cumulatively received, coded, and edited at the U.S. Sentencing Commission by November 12, 2010. Of these, 1,872 cases were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

<sup>2</sup> All cases with departures in which the court did not indicate as a reason either *United States v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

<sup>3</sup> All cases sentenced outside of the guideline range in which the court indicated both a departure (see footnote 2) and a reference to either *United States v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

<sup>4</sup> All cases sentenced outside of the guideline range in which no departure was indicated and in which the court cited *United States v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing outside of the guideline system.

<sup>5</sup> All cases sentenced outside of the guideline range that could not be classified into any of the three previous outside of the range categories. This category includes cases in which no reason was provided for a sentence outside of the guideline range.

<sup>6</sup> Cases in which a reason for the sentence indicated that the prosecution initiated, proposed, or stipulated to a sentence outside of the guideline range, either pursuant to a plea agreement or as part of a non-plea negotiation with the defendant.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**SENTENCES RELATIVE TO THE GUIDELINE RANGE BY CIRCUIT AND DISTRICT<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/ BOOKER		ABOVE RANGE W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>78,982</b>	<b>43,103</b>	<b>54.6</b>	<b>343</b>	<b>0.4</b>	<b>114</b>	<b>0.1</b>	<b>893</b>	<b>1.1</b>	<b>123</b>	<b>0.2</b>
<b>D.C. CIRCUIT</b>	<b>373</b>	<b>126</b>	<b>33.8</b>	<b>4</b>	<b>1.1</b>	<b>2</b>	<b>0.5</b>	<b>3</b>	<b>0.8</b>	<b>0</b>	<b>0.0</b>
District of Columbia	373	126	33.8	4	1.1	2	0.5	3	0.8	0	0.0
<b>FIRST CIRCUIT</b>	<b>1,733</b>	<b>931</b>	<b>53.7</b>	<b>5</b>	<b>0.3</b>	<b>1</b>	<b>0.1</b>	<b>15</b>	<b>0.9</b>	<b>6</b>	<b>0.3</b>
Maine	169	75	44.4	0	0.0	1	0.6	2	1.2	0	0.0
Massachusetts	421	133	31.6	3	0.7	0	0.0	3	0.7	3	0.7
New Hampshire	230	97	42.2	1	0.4	0	0.0	5	2.2	0	0.0
Puerto Rico	758	554	73.1	1	0.1	0	0.0	4	0.5	3	0.4
Rhode Island	155	72	46.5	0	0.0	0	0.0	1	0.6	0	0.0
<b>SECOND CIRCUIT</b>	<b>4,126</b>	<b>1,658</b>	<b>40.2</b>	<b>11</b>	<b>0.3</b>	<b>3</b>	<b>0.1</b>	<b>24</b>	<b>0.6</b>	<b>4</b>	<b>0.1</b>
Connecticut	406	157	38.7	1	0.2	1	0.2	4	1.0	0	0.0
New York											
Eastern	1,152	365	31.7	2	0.2	0	0.0	12	1.0	1	0.1
Northern	486	300	61.7	1	0.2	0	0.0	0	0.0	1	0.2
Southern	1,244	398	32.0	1	0.1	1	0.1	5	0.4	0	0.0
Western	662	360	54.4	5	0.8	1	0.2	3	0.5	2	0.3
Vermont	176	78	44.3	1	0.6	0	0.0	0	0.0	0	0.0
<b>THIRD CIRCUIT</b>	<b>2,908</b>	<b>1,289</b>	<b>44.3</b>	<b>8</b>	<b>0.3</b>	<b>2</b>	<b>0.1</b>	<b>22</b>	<b>0.8</b>	<b>5</b>	<b>0.2</b>
Delaware	128	40	31.3	0	0.0	0	0.0	6	4.7	0	0.0
New Jersey	816	402	49.3	2	0.2	0	0.0	5	0.6	0	0.0
Pennsylvania											
Eastern	912	340	37.3	1	0.1	0	0.0	5	0.5	2	0.2
Middle	493	209	42.4	4	0.8	1	0.2	1	0.2	0	0.0
Western	486	258	53.1	0	0.0	0	0.0	4	0.8	3	0.6
Virgin Islands	73	40	54.8	1	1.4	1	1.4	1	1.4	0	0.0
<b>FOURTH CIRCUIT</b>	<b>6,467</b>	<b>3,982</b>	<b>61.6</b>	<b>42</b>	<b>0.6</b>	<b>14</b>	<b>0.2</b>	<b>90</b>	<b>1.4</b>	<b>5</b>	<b>0.1</b>
Maryland	725	334	46.1	11	1.5	4	0.6	12	1.7	3	0.4
North Carolina											
Eastern	737	396	53.7	9	1.2	3	0.4	3	0.4	0	0.0
Middle	531	390	73.4	1	0.2	1	0.2	14	2.6	0	0.0
Western	500	285	57.0	3	0.6	0	0.0	5	1.0	0	0.0
South Carolina	1,223	743	60.8	7	0.6	2	0.2	10	0.8	2	0.2
Virginia											
Eastern	1,873	1,373	73.3	8	0.4	3	0.2	25	1.3	0	0.0
Western	358	180	50.3	0	0.0	1	0.3	17	4.7	0	0.0
West Virginia											
Northern	279	154	55.2	1	0.4	0	0.0	3	1.1	0	0.0
Southern	241	127	52.7	2	0.8	0	0.0	1	0.4	0	0.0

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>9,192</b>	<b>11.6</b>	<b>7,998</b>	<b>10.1</b>	<b>3,124</b>	<b>4.0</b>	<b>1,623</b>	<b>2.1</b>	<b>835</b>	<b>1.1</b>	<b>10,769</b>	<b>13.6</b>	<b>865</b>	<b>1.1</b>
<b>D.C. CIRCUIT</b>	<b>111</b>	<b>29.8</b>	<b>0</b>	<b>0.0</b>	<b>47</b>	<b>12.6</b>	<b>10</b>	<b>2.7</b>	<b>8</b>	<b>2.1</b>	<b>56</b>	<b>15.0</b>	<b>6</b>	<b>1.6</b>
District of Columbia	111	29.8	0	0.0	47	12.6	10	2.7	8	2.1	56	15.0	6	1.6
<b>FIRST CIRCUIT</b>	<b>243</b>	<b>14.0</b>	<b>24</b>	<b>1.4</b>	<b>123</b>	<b>7.1</b>	<b>29</b>	<b>1.7</b>	<b>19</b>	<b>1.1</b>	<b>324</b>	<b>18.7</b>	<b>13</b>	<b>0.8</b>
Maine	61	36.1	0	0.0	1	0.6	2	1.2	0	0.0	27	16.0	0	0.0
Massachusetts	49	11.6	0	0.0	78	18.5	12	2.9	8	1.9	128	30.4	4	1.0
New Hampshire	61	26.5	0	0.0	22	9.6	2	0.9	4	1.7	36	15.7	2	0.9
Puerto Rico	57	7.5	24	3.2	21	2.8	13	1.7	5	0.7	69	9.1	7	0.9
Rhode Island	15	9.7	0	0.0	1	0.6	0	0.0	2	1.3	64	41.3	0	0.0
<b>SECOND CIRCUIT</b>	<b>793</b>	<b>19.2</b>	<b>0</b>	<b>0.0</b>	<b>113</b>	<b>2.7</b>	<b>114</b>	<b>2.8</b>	<b>116</b>	<b>2.8</b>	<b>1,222</b>	<b>29.6</b>	<b>68</b>	<b>1.6</b>
Connecticut	60	14.8	0	0.0	10	2.5	33	8.1	22	5.4	114	28.1	4	1.0
New York														
Eastern	258	22.4	0	0.0	30	2.6	43	3.7	45	3.9	376	32.6	20	1.7
Northern	96	19.8	0	0.0	7	1.4	6	1.2	6	1.2	68	14.0	1	0.2
Southern	196	15.8	0	0.0	27	2.2	20	1.6	32	2.6	528	42.4	36	2.9
Western	162	24.5	0	0.0	31	4.7	3	0.5	2	0.3	87	13.1	6	0.9
Vermont	21	11.9	0	0.0	8	4.5	9	5.1	9	5.1	49	27.8	1	0.6
<b>THIRD CIRCUIT</b>	<b>724</b>	<b>24.9</b>	<b>0</b>	<b>0.0</b>	<b>93</b>	<b>3.2</b>	<b>46</b>	<b>1.6</b>	<b>48</b>	<b>1.7</b>	<b>631</b>	<b>21.7</b>	<b>40</b>	<b>1.4</b>
Delaware	23	18.0	0	0.0	1	0.8	1	0.8	1	0.8	52	40.6	4	3.1
New Jersey	223	27.3	0	0.0	13	1.6	15	1.8	7	0.9	142	17.4	7	0.9
Pennsylvania														
Eastern	291	31.9	0	0.0	21	2.3	8	0.9	17	1.9	208	22.8	19	2.1
Middle	97	19.7	0	0.0	47	9.5	12	2.4	11	2.2	110	22.3	1	0.2
Western	75	15.4	0	0.0	7	1.4	9	1.9	12	2.5	113	23.3	5	1.0
Virgin Islands	15	20.5	0	0.0	4	5.5	1	1.4	0	0.0	6	8.2	4	5.5
<b>FOURTH CIRCUIT</b>	<b>1,004</b>	<b>15.5</b>	<b>0</b>	<b>0.0</b>	<b>195</b>	<b>3.0</b>	<b>90</b>	<b>1.4</b>	<b>45</b>	<b>0.7</b>	<b>931</b>	<b>14.4</b>	<b>69</b>	<b>1.1</b>
Maryland	163	22.5	0	0.0	66	9.1	12	1.7	15	2.1	96	13.2	9	1.2
North Carolina														
Eastern	260	35.3	0	0.0	2	0.3	3	0.4	1	0.1	54	7.3	6	0.8
Middle	58	10.9	0	0.0	1	0.2	2	0.4	2	0.4	59	11.1	3	0.6
Western	139	27.8	0	0.0	6	1.2	7	1.4	1	0.2	50	10.0	4	0.8
South Carolina	190	15.5	0	0.0	40	3.3	17	1.4	7	0.6	188	15.4	17	1.4
Virginia														
Eastern	79	4.2	0	0.0	36	1.9	42	2.2	17	0.9	264	14.1	26	1.4
Western	63	17.6	0	0.0	15	4.2	5	1.4	2	0.6	73	20.4	2	0.6
West Virginia														
Northern	26	9.3	0	0.0	29	10.4	1	0.4	0	0.0	63	22.6	2	0.7
Southern	26	10.8	0	0.0	0	0.0	1	0.4	0	0.0	84	34.9	0	0.0

Table 2 (cont.)

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/ BOOKER		ABOVE RANGE W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
<b>FIFTH CIRCUIT</b>	<b>19,049</b>	<b>13,596</b>	<b>71.4</b>	<b>82</b>	<b>0.4</b>	<b>28</b>	<b>0.1</b>	<b>291</b>	<b>1.5</b>	<b>27</b>	<b>0.1</b>
Louisiana											
Eastern	<b>399</b>	278	69.7	2	0.5	6	1.5	8	2.0	0	0.0
Middle	<b>201</b>	120	59.7	8	4.0	1	0.5	4	2.0	0	0.0
Western	<b>359</b>	255	71.0	4	1.1	5	1.4	9	2.5	5	1.4
Mississippi											
Northern	<b>168</b>	102	60.7	0	0.0	0	0.0	13	7.7	0	0.0
Southern	<b>307</b>	221	72.0	0	0.0	0	0.0	6	2.0	1	0.3
Texas											
Eastern	<b>847</b>	662	78.2	4	0.5	0	0.0	4	0.5	2	0.2
Northern	<b>927</b>	594	64.1	15	1.6	10	1.1	43	4.6	3	0.3
Southern	<b>7,832</b>	5,029	64.2	33	0.4	3	0.0	73	0.9	4	0.1
Western	<b>8,009</b>	6,335	79.1	16	0.2	3	0.0	131	1.6	12	0.1
<b>SIXTH CIRCUIT</b>	<b>5,430</b>	<b>2,705</b>	<b>49.8</b>	<b>24</b>	<b>0.4</b>	<b>11</b>	<b>0.2</b>	<b>67</b>	<b>1.2</b>	<b>7</b>	<b>0.1</b>
Kentucky											
Eastern	<b>614</b>	267	43.5	2	0.3	1	0.2	9	1.5	0	0.0
Western	<b>500</b>	267	53.4	1	0.2	0	0.0	3	0.6	0	0.0
Michigan											
Eastern	<b>723</b>	326	45.1	2	0.3	0	0.0	5	0.7	0	0.0
Western	<b>540</b>	320	59.3	11	2.0	3	0.6	14	2.6	0	0.0
Ohio											
Northern	<b>597</b>	331	55.4	1	0.2	1	0.2	12	2.0	4	0.7
Southern	<b>670</b>	259	38.7	0	0.0	3	0.4	9	1.3	2	0.3
Tennessee											
Eastern	<b>832</b>	471	56.6	1	0.1	2	0.2	6	0.7	1	0.1
Middle	<b>288</b>	125	43.4	5	1.7	1	0.3	4	1.4	0	0.0
Western	<b>666</b>	339	50.9	1	0.2	0	0.0	5	0.8	0	0.0
<b>SEVENTH CIRCUIT</b>	<b>3,004</b>	<b>1,436</b>	<b>47.8</b>	<b>20</b>	<b>0.7</b>	<b>13</b>	<b>0.4</b>	<b>52</b>	<b>1.7</b>	<b>8</b>	<b>0.3</b>
Illinois											
Central	<b>373</b>	207	55.5	1	0.3	0	0.0	3	0.8	0	0.0
Northern	<b>866</b>	357	41.2	7	0.8	2	0.2	15	1.7	1	0.1
Southern	<b>310</b>	209	67.4	9	2.9	9	2.9	5	1.6	1	0.3
Indiana											
Northern	<b>452</b>	252	55.8	1	0.2	0	0.0	9	2.0	5	1.1
Southern	<b>326</b>	165	50.6	1	0.3	1	0.3	11	3.4	0	0.0
Wisconsin											
Eastern	<b>468</b>	140	29.9	0	0.0	0	0.0	8	1.7	1	0.2
Western	<b>209</b>	106	50.7	1	0.5	1	0.5	1	0.5	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>4,849</b>	<b>2,582</b>	<b>53.2</b>	<b>37</b>	<b>0.8</b>	<b>8</b>	<b>0.2</b>	<b>70</b>	<b>1.4</b>	<b>5</b>	<b>0.1</b>
Arkansas											
Eastern	<b>383</b>	241	62.9	3	0.8	1	0.3	10	2.6	0	0.0
Western	<b>257</b>	193	75.1	0	0.0	0	0.0	1	0.4	0	0.0
Iowa											
Northern	<b>341</b>	192	56.3	8	2.3	2	0.6	11	3.2	2	0.6
Southern	<b>451</b>	191	42.4	3	0.7	0	0.0	5	1.1	0	0.0
Minnesota	<b>497</b>	147	29.6	2	0.4	2	0.4	4	0.8	0	0.0
Missouri											
Eastern	<b>1,034</b>	492	47.6	7	0.7	0	0.0	9	0.9	0	0.0
Western	<b>654</b>	344	52.6	2	0.3	0	0.0	21	3.2	1	0.2
Nebraska	<b>597</b>	356	59.6	3	0.5	0	0.0	2	0.3	1	0.2
North Dakota	<b>234</b>	145	62.0	0	0.0	1	0.4	1	0.4	1	0.4
South Dakota	<b>401</b>	281	70.1	9	2.2	2	0.5	6	1.5	0	0.0

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
<b>FIFTH CIRCUIT</b>	<b>1,187</b>	<b>6.2</b>	<b>1,113</b>	<b>5.8</b>	<b>292</b>	<b>1.5</b>	<b>666</b>	<b>3.5</b>	<b>58</b>	<b>0.3</b>	<b>1,523</b>	<b>8.0</b>	<b>186</b>	<b>1.0</b>
Louisiana														
Eastern	25	6.3	0	0.0	8	2.0	6	1.5	4	1.0	54	13.5	8	2.0
Middle	28	13.9	0	0.0	0	0.0	0	0.0	1	0.5	38	18.9	1	0.5
Western	33	9.2	0	0.0	3	0.8	4	1.1	6	1.7	21	5.8	14	3.9
Mississippi														
Northern	38	22.6	0	0.0	1	0.6	0	0.0	1	0.6	9	5.4	4	2.4
Southern	32	10.4	0	0.0	4	1.3	2	0.7	1	0.3	32	10.4	8	2.6
Texas														
Eastern	59	7.0	0	0.0	48	5.7	14	1.7	4	0.5	45	5.3	5	0.6
Northern	129	13.9	0	0.0	8	0.9	5	0.5	5	0.5	110	11.9	5	0.5
Southern	385	4.9	1,058	13.5	103	1.3	467	6.0	10	0.1	642	8.2	25	0.3
Western	458	5.7	55	0.7	117	1.5	168	2.1	26	0.3	572	7.1	116	1.4
<b>SIXTH CIRCUIT</b>	<b>1,237</b>	<b>22.8</b>	<b>2</b>	<b>0.0</b>	<b>207</b>	<b>3.8</b>	<b>72</b>	<b>1.3</b>	<b>101</b>	<b>1.9</b>	<b>927</b>	<b>17.1</b>	<b>70</b>	<b>1.3</b>
Kentucky														
Eastern	248	40.4	0	0.0	11	1.8	3	0.5	2	0.3	68	11.1	3	0.5
Western	110	22.0	0	0.0	47	9.4	3	0.6	2	0.4	62	12.4	5	1.0
Michigan														
Eastern	158	21.9	1	0.1	19	2.6	11	1.5	12	1.7	185	25.6	4	0.6
Western	69	12.8	0	0.0	1	0.2	12	2.2	9	1.7	96	17.8	5	0.9
Ohio														
Northern	99	16.6	1	0.2	9	1.5	8	1.3	12	2.0	110	18.4	9	1.5
Southern	176	26.3	0	0.0	64	9.6	17	2.5	29	4.3	90	13.4	21	3.1
Tennessee														
Eastern	208	25.0	0	0.0	6	0.7	6	0.7	4	0.5	115	13.8	12	1.4
Middle	41	14.2	0	0.0	31	10.8	5	1.7	9	3.1	65	22.6	2	0.7
Western	128	19.2	0	0.0	19	2.9	7	1.1	22	3.3	136	20.4	9	1.4
<b>SEVENTH CIRCUIT</b>	<b>458</b>	<b>15.2</b>	<b>1</b>	<b>0.0</b>	<b>123</b>	<b>4.1</b>	<b>61</b>	<b>2.0</b>	<b>96</b>	<b>3.2</b>	<b>686</b>	<b>22.8</b>	<b>50</b>	<b>1.7</b>
Illinois														
Central	71	19.0	0	0.0	8	2.1	6	1.6	4	1.1	70	18.8	3	0.8
Northern	122	14.1	1	0.1	10	1.2	23	2.7	67	7.7	249	28.8	12	1.4
Southern	16	5.2	0	0.0	6	1.9	7	2.3	10	3.2	27	8.7	11	3.5
Indiana														
Northern	83	18.4	0	0.0	20	4.4	10	2.2	7	1.5	59	13.1	6	1.3
Southern	52	16.0	0	0.0	25	7.7	4	1.2	1	0.3	64	19.6	2	0.6
Wisconsin														
Eastern	99	21.2	0	0.0	54	11.5	7	1.5	3	0.6	140	29.9	16	3.4
Western	15	7.2	0	0.0	0	0.0	4	1.9	4	1.9	77	36.8	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>756</b>	<b>15.6</b>	<b>31</b>	<b>0.6</b>	<b>190</b>	<b>3.9</b>	<b>60</b>	<b>1.2</b>	<b>65</b>	<b>1.3</b>	<b>996</b>	<b>20.5</b>	<b>49</b>	<b>1.0</b>
Arkansas														
Eastern	38	9.9	0	0.0	17	4.4	9	2.3	3	0.8	54	14.1	7	1.8
Western	26	10.1	0	0.0	0	0.0	1	0.4	2	0.8	33	12.8	1	0.4
Iowa														
Northern	76	22.3	0	0.0	7	2.1	1	0.3	1	0.3	41	12.0	0	0.0
Southern	102	22.6	0	0.0	32	7.1	1	0.2	3	0.7	112	24.8	2	0.4
Minnesota	122	24.5	0	0.0	9	1.8	12	2.4	22	4.4	175	35.2	2	0.4
Missouri														
Eastern	196	19.0	0	0.0	48	4.6	2	0.2	12	1.2	256	24.8	12	1.2
Western	125	19.1	0	0.0	25	3.8	5	0.8	3	0.5	119	18.2	9	1.4
Nebraska	17	2.8	31	5.2	37	6.2	12	2.0	4	0.7	123	20.6	11	1.8
North Dakota	47	20.1	0	0.0	7	3.0	6	2.6	3	1.3	20	8.5	3	1.3
South Dakota	7	1.7	0	0.0	8	2.0	11	2.7	12	3.0	63	15.7	2	0.5

Table 2 (cont.)

CIRCUIT District	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURE		UPWARD DEPARTURE W/ BOOKER		ABOVE RANGE W/ BOOKER		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
<b>NINTH CIRCUIT</b>	<b>17,367</b>	<b>6,600</b>	<b>38.0</b>	<b>70</b>	<b>0.4</b>	<b>16</b>	<b>0.1</b>	<b>111</b>	<b>0.6</b>	<b>29</b>	<b>0.2</b>
Alaska	148	60	40.5	2	1.4	0	0.0	0	0.0	0	0.0
Arizona	5,495	2,067	37.6	44	0.8	4	0.1	25	0.5	4	0.1
California											
Central	2,055	705	34.3	3	0.1	5	0.2	18	0.9	7	0.3
Eastern	975	392	40.2	1	0.1	2	0.2	12	1.2	3	0.3
Northern	837	414	49.5	3	0.4	0	0.0	10	1.2	5	0.6
Southern	4,557	1,388	30.5	4	0.1	1	0.0	5	0.1	8	0.2
Guam	45	30	66.7	0	0.0	2	4.4	0	0.0	0	0.0
Hawaii	162	59	36.4	0	0.0	0	0.0	3	1.9	0	0.0
Idaho	294	124	42.2	0	0.0	0	0.0	0	0.0	0	0.0
Montana	374	257	68.7	2	0.5	0	0.0	11	2.9	1	0.3
Nevada	601	373	62.1	4	0.7	0	0.0	8	1.3	1	0.2
Northern Mariana Islands	23	17	73.9	0	0.0	0	0.0	0	0.0	0	0.0
Oregon	594	242	40.7	0	0.0	0	0.0	7	1.2	0	0.0
Washington											
Eastern	362	127	35.1	1	0.3	2	0.6	7	1.9	0	0.0
Western	845	345	40.8	6	0.7	0	0.0	5	0.6	0	0.0
<b>TENTH CIRCUIT</b>	<b>6,866</b>	<b>4,064</b>	<b>59.2</b>	<b>21</b>	<b>0.3</b>	<b>3</b>	<b>0.0</b>	<b>44</b>	<b>0.6</b>	<b>13</b>	<b>0.2</b>
Colorado	515	296	57.5	0	0.0	1	0.2	5	1.0	1	0.2
Kansas	703	387	55.0	6	0.9	2	0.3	18	2.6	1	0.1
New Mexico	3,684	2,267	61.5	9	0.2	0	0.0	4	0.1	6	0.2
Oklahoma											
Eastern	113	72	63.7	0	0.0	0	0.0	1	0.9	0	0.0
Northern	155	101	65.2	0	0.0	0	0.0	1	0.6	0	0.0
Western	404	289	71.5	0	0.0	0	0.0	8	2.0	0	0.0
Utah	879	395	44.9	5	0.6	0	0.0	4	0.5	3	0.3
Wyoming	413	257	62.2	1	0.2	0	0.0	3	0.7	2	0.5
<b>ELEVENTH CIRCUIT</b>	<b>6,810</b>	<b>4,134</b>	<b>60.7</b>	<b>19</b>	<b>0.3</b>	<b>13</b>	<b>0.2</b>	<b>104</b>	<b>1.5</b>	<b>14</b>	<b>0.2</b>
Alabama											
Middle	236	138	58.5	0	0.0	0	0.0	4	1.7	0	0.0
Northern	411	261	63.5	1	0.2	1	0.2	4	1.0	1	0.2
Southern	305	183	60.0	0	0.0	2	0.7	6	2.0	1	0.3
Florida											
Middle	1,658	867	52.3	3	0.2	1	0.1	29	1.7	2	0.1
Northern	387	262	67.7	1	0.3	2	0.5	4	1.0	1	0.3
Southern	2,141	1,344	62.8	4	0.2	3	0.1	22	1.0	7	0.3
Georgia											
Middle	296	219	74.0	2	0.7	2	0.7	8	2.7	2	0.7
Northern	670	319	47.6	2	0.3	2	0.3	8	1.2	0	0.0
Southern	706	541	76.6	6	0.8	0	0.0	19	2.7	0	0.0

Table 2 (cont.)

CIRCUIT District	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
<b>NINTH CIRCUIT</b>	<b>1,293</b>	<b>7.4</b>	<b>5,971</b>	<b>34.4</b>	<b>989</b>	<b>5.7</b>	<b>277</b>	<b>1.6</b>	<b>163</b>	<b>0.9</b>	<b>1,599</b>	<b>9.2</b>	<b>249</b>	<b>1.4</b>
Alaska	19	12.8	1	0.7	22	14.9	2	1.4	4	2.7	35	23.6	3	2.0
Arizona	168	3.1	2,616	47.6	138	2.5	74	1.3	29	0.5	283	5.2	43	0.8
California														
Central	234	11.4	409	19.9	173	8.4	55	2.7	51	2.5	305	14.8	90	4.4
Eastern	90	9.2	308	31.6	47	4.8	14	1.4	5	0.5	93	9.5	8	0.8
Northern	61	7.3	91	10.9	91	10.9	12	1.4	19	2.3	124	14.8	7	0.8
Southern	274	6.0	2,373	52.1	107	2.3	89	2.0	27	0.6	231	5.1	50	1.1
Guam	7	15.6	0	0.0	1	2.2	0	0.0	0	0.0	4	8.9	1	2.2
Hawaii	49	30.2	0	0.0	3	1.9	0	0.0	0	0.0	47	29.0	1	0.6
Idaho	73	24.8	33	11.2	6	2.0	1	0.3	3	1.0	49	16.7	5	1.7
Montana	48	12.8	0	0.0	8	2.1	4	1.1	3	0.8	39	10.4	1	0.3
Nevada	50	8.3	0	0.0	42	7.0	7	1.2	1	0.2	96	16.0	19	3.2
Northern Mariana Islands	1	4.3	0	0.0	1	4.3	0	0.0	2	8.7	2	8.7	0	0.0
Oregon	91	15.3	40	6.7	98	16.5	6	1.0	8	1.3	93	15.7	9	1.5
Washington														
Eastern	46	12.7	62	17.1	33	9.1	5	1.4	3	0.8	72	19.9	4	1.1
Western	82	9.7	38	4.5	219	25.9	8	0.9	8	0.9	126	14.9	8	0.9
<b>TENTH CIRCUIT</b>	<b>416</b>	<b>6.1</b>	<b>856</b>	<b>12.5</b>	<b>631</b>	<b>9.2</b>	<b>121</b>	<b>1.8</b>	<b>47</b>	<b>0.7</b>	<b>629</b>	<b>9.2</b>	<b>21</b>	<b>0.3</b>
Colorado	81	15.7	0	0.0	21	4.1	15	2.9	5	1.0	87	16.9	3	0.6
Kansas	122	17.4	0	0.0	92	13.1	1	0.1	1	0.1	72	10.2	1	0.1
New Mexico	66	1.8	654	17.8	435	11.8	71	1.9	20	0.5	144	3.9	8	0.2
Oklahoma														
Eastern	25	22.1	0	0.0	1	0.9	0	0.0	0	0.0	14	12.4	0	0.0
Northern	25	16.1	0	0.0	0	0.0	0	0.0	0	0.0	28	18.1	0	0.0
Western	31	7.7	0	0.0	4	1.0	0	0.0	4	1.0	68	16.8	0	0.0
Utah	32	3.6	199	22.6	43	4.9	26	3.0	8	0.9	158	18.0	6	0.7
Wyoming	34	8.2	3	0.7	35	8.5	8	1.9	9	2.2	58	14.0	3	0.7
<b>ELEVENTH CIRCUIT</b>	<b>970</b>	<b>14.2</b>	<b>0</b>	<b>0.0</b>	<b>121</b>	<b>1.8</b>	<b>77</b>	<b>1.1</b>	<b>69</b>	<b>1.0</b>	<b>1,245</b>	<b>18.3</b>	<b>44</b>	<b>0.6</b>
Alabama														
Middle	61	25.8	0	0.0	5	2.1	0	0.0	0	0.0	28	11.9	0	0.0
Northern	82	20.0	0	0.0	4	1.0	1	0.2	0	0.0	54	13.1	2	0.5
Southern	50	16.4	0	0.0	4	1.3	2	0.7	1	0.3	53	17.4	3	1.0
Florida														
Middle	317	19.1	0	0.0	27	1.6	16	1.0	22	1.3	363	21.9	11	0.7
Northern	63	16.3	0	0.0	1	0.3	5	1.3	5	1.3	43	11.1	0	0.0
Southern	187	8.7	0	0.0	36	1.7	21	1.0	27	1.3	468	21.9	22	1.0
Georgia														
Middle	41	13.9	0	0.0	8	2.7	0	0.0	1	0.3	12	4.1	1	0.3
Northern	97	14.5	0	0.0	28	4.2	25	3.7	13	1.9	172	25.7	4	0.6
Southern	72	10.2	0	0.0	8	1.1	7	1.0	0	0.0	52	7.4	1	0.1

<sup>1</sup> Of the 80,854 cases, 1,872 were excluded because information was missing from the submitted documents that prevented the comparison of the sentence and the guideline range. Districts for which information needed to determine the relationship between the sentence imposed and the guideline range is missing in five percent or more of the cases received included: Middle Georgia (26.0%), Arizona (9.1%), Western Texas (7.8%), Western Louisiana (7.0%), Maryland (6.5%), Eastern Virginia (5.6%), and Middle Tennessee (5.0%). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

Table 3

**SENTENCES RELATIVE TO THE GUIDELINE RANGE**  
**BY EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	TOTAL	WITHIN GUIDELINE RANGE		UPWARD DEPARTURES		UPWARD DEPARTURES W/ <i>BOOKER</i>		ABOVE RANGE WITH W/ <i>BOOKER</i>		REMAINING ABOVE RANGE	
		N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>78,982</b>	<b>43,103</b>	<b>54.6</b>	<b>343</b>	<b>0.4</b>	<b>114</b>	<b>0.1</b>	<b>893</b>	<b>1.1</b>	<b>123</b>	<b>0.2</b>
Murder	64	39	60.9	2	3.1	1	1.6	3	4.7	2	3.1
Manslaughter	62	37	59.7	7	11.3	3	4.8	8	12.9	1	1.6
Kidnapping/Hostage Taking	38	16	42.1	0	0.0	0	0.0	3	7.9	0	0.0
Sexual Abuse	474	299	63.1	6	1.3	5	1.1	16	3.4	1	0.2
Assault	576	338	58.7	11	1.9	5	0.9	16	2.8	2	0.3
Robbery	1,068	614	57.5	14	1.3	5	0.5	30	2.8	5	0.5
Arson	71	35	49.3	4	5.6	0	0.0	1	1.4	1	1.4
Drugs - Trafficking	22,965	10,314	44.9	62	0.3	16	0.1	107	0.5	24	0.1
Drugs - Communication Facility	506	244	48.2	1	0.2	0	0.0	2	0.4	1	0.2
Drugs - Simple Possession	590	554	93.9	5	0.8	0	0.0	4	0.7	0	0.0
Firearms	7,829	4,603	58.8	71	0.9	23	0.3	168	2.1	31	0.4
Burglary/B&E	35	18	51.4	2	5.7	0	0.0	0	0.0	0	0.0
Auto Theft	91	52	57.1	1	1.1	1	1.1	3	3.3	0	0.0
Larceny	1,464	1,039	71.0	6	0.4	4	0.3	20	1.4	6	0.4
Fraud	6,976	3,764	54.0	23	0.3	19	0.3	109	1.6	15	0.2
Embezzlement	422	295	69.9	1	0.2	0	0.0	0	0.0	1	0.2
Forgery/Counterfeiting	857	561	65.5	8	0.9	3	0.4	22	2.6	1	0.1
Bribery	219	72	32.9	1	0.5	0	0.0	2	0.9	0	0.0
Tax	629	228	36.2	0	0.0	1	0.2	4	0.6	0	0.0
Money Laundering	775	271	35.0	1	0.1	0	0.0	6	0.8	0	0.0
Racketeering/Extortion	648	262	40.4	5	0.8	2	0.3	10	1.5	1	0.2
Gambling/Lottery	72	37	51.4	8	11.1	0	0.0	0	0.0	0	0.0
Civil Rights	58	30	51.7	0	0.0	0	0.0	0	0.0	1	1.7
Immigration	26,719	15,880	59.4	72	0.3	17	0.1	264	1.0	22	0.1
Pornography/Prostitution	1,993	841	42.2	12	0.6	3	0.2	36	1.8	3	0.2
Prison Offenses	410	304	74.1	0	0.0	2	0.5	10	2.4	0	0.0
Administration of Justice Offenses	915	485	53.0	4	0.4	0	0.0	22	2.4	3	0.3
Environmental/Wildlife	150	100	66.7	2	1.3	0	0.0	1	0.7	0	0.0
National Defense	64	21	32.8	1	1.6	0	0.0	2	3.1	0	0.0
Antitrust	16	3	18.8	0	0.0	0	0.0	0	0.0	0	0.0
Food & Drug	78	46	59.0	0	0.0	0	0.0	3	3.8	0	0.0
Other Miscellaneous Offenses	2,148	1,701	79.2	13	0.6	4	0.2	21	1.0	2	0.1

Table 3 (cont.)

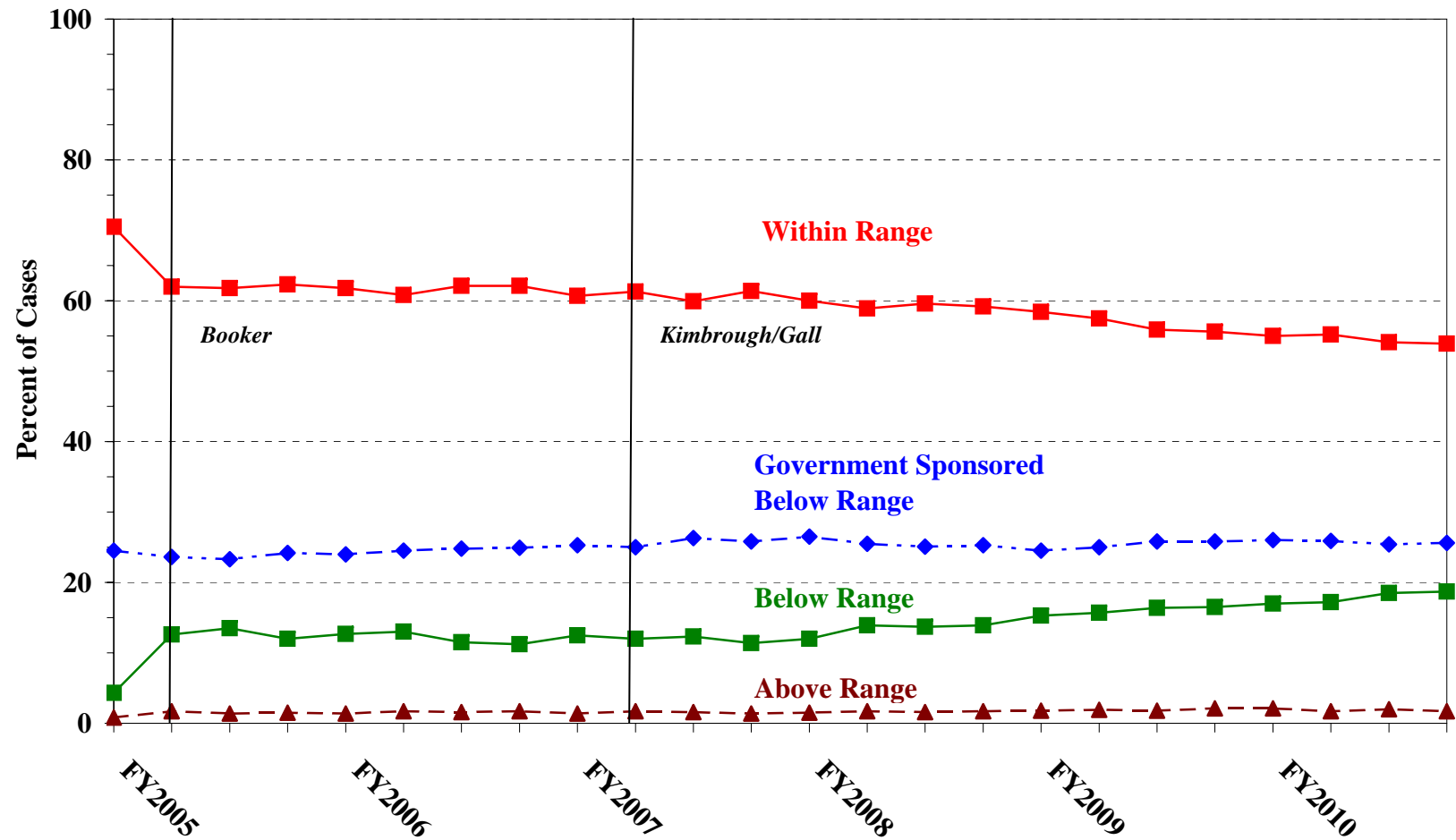
PRIMARY OFFENSE	§5K1.1 SUBSTANTIAL ASSISTANCE		§5K3.1 EARLY DISPOSITION		OTHER GOV'T SPONSORED		BELOW DOWNWARD DEPARTURE		DOWNWARD DEPARTURE W/ BOOKER		BELOW RANGE W/ BOOKER		REMAINING BELOW RANGE	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>9,192</b>	<b>11.6</b>	<b>7,998</b>	<b>10.1</b>	<b>3,124</b>	<b>4.0</b>	<b>1,623</b>	<b>2.1</b>	<b>835</b>	<b>1.1</b>	<b>10,769</b>	<b>13.6</b>	<b>865</b>	<b>1.1</b>
<b>Murder</b>	8	12.5	0	0.0	4	6.3	0	0.0	0	0.0	5	7.8	0	0.0
<b>Manslaughter</b>	1	1.6	0	0.0	2	3.2	0	0.0	0	0.0	3	4.8	0	0.0
<b>Kidnapping/Hostage Taking</b>	9	23.7	0	0.0	3	7.9	0	0.0	0	0.0	7	18.4	0	0.0
<b>Sexual Abuse</b>	10	2.1	0	0.0	51	10.8	5	1.1	5	1.1	73	15.4	3	0.6
<b>Assault</b>	5	0.9	6	1.0	75	13.0	17	3.0	13	2.3	81	14.1	7	1.2
<b>Robbery</b>	99	9.3	2	0.2	39	3.7	36	3.4	31	2.9	186	17.4	7	0.7
<b>Arson</b>	17	23.9	0	0.0	2	2.8	1	1.4	1	1.4	9	12.7	0	0.0
<b>Drugs - Trafficking</b>	5,649	24.6	1,327	5.8	959	4.2	347	1.5	286	1.2	3,675	16.0	199	0.9
<b>Drugs - Communication Facility</b>	51	10.1	2	0.4	32	6.3	17	3.4	17	3.4	132	26.1	7	1.4
<b>Drugs - Simple Possession</b>	7	1.2	3	0.5	4	0.7	1	0.2	0	0.0	7	1.2	5	0.8
<b>Firearms</b>	878	11.2	9	0.1	376	4.8	126	1.6	97	1.2	1,347	17.2	100	1.3
<b>Burglary/B&amp;E</b>	2	5.7	0	0.0	2	5.7	0	0.0	1	2.9	9	25.7	1	2.9
<b>Auto Theft</b>	17	18.7	0	0.0	1	1.1	0	0.0	0	0.0	15	16.5	1	1.1
<b>Larceny</b>	78	5.3	3	0.2	40	2.7	20	1.4	10	0.7	207	14.1	31	2.1
<b>Fraud</b>	1,161	16.6	4	0.1	274	3.9	119	1.7	98	1.4	1,277	18.3	113	1.6
<b>Embezzlement</b>	15	3.6	3	0.7	17	4.0	7	1.7	7	1.7	68	16.1	8	1.9
<b>Forgery/Counterfeiting</b>	81	9.5	2	0.2	24	2.8	12	1.4	8	0.9	121	14.1	14	1.6
<b>Bribery</b>	69	31.5	1	0.5	11	5.0	1	0.5	4	1.8	54	24.7	4	1.8
<b>Tax</b>	98	15.6	4	0.6	34	5.4	32	5.1	15	2.4	195	31.0	18	2.9
<b>Money Laundering</b>	191	24.6	17	2.2	68	8.8	15	1.9	8	1.0	184	23.7	14	1.8
<b>Racketeering/Extortion</b>	144	22.2	0	0.0	63	9.7	14	2.2	13	2.0	122	18.8	12	1.9
<b>Gambling/Lottery</b>	7	9.7	0	0.0	1	1.4	1	1.4	0	0.0	18	25.0	0	0.0
<b>Civil Rights</b>	10	17.2	0	0.0	1	1.7	0	0.0	1	1.7	10	17.2	5	8.6
<b>Immigration</b>	275	1.0	6,605	24.7	650	2.4	752	2.8	124	0.5	1,830	6.8	228	0.9
<b>Pornography/Prostitution</b>	72	3.6	0	0.0	212	10.6	42	2.1	58	2.9	681	34.2	33	1.7
<b>Prison Offenses</b>	10	2.4	3	0.7	29	7.1	5	1.2	3	0.7	38	9.3	6	1.5
<b>Administration of Justice Offenses</b>	101	11.0	5	0.5	60	6.6	13	1.4	10	1.1	194	21.2	18	2.0
<b>Environmental/Wildlife</b>	7	4.7	0	0.0	9	6.0	3	2.0	1	0.7	23	15.3	4	2.7
<b>National Defense</b>	16	25.0	0	0.0	5	7.8	7	10.9	4	6.3	8	12.5	0	0.0
<b>Antitrust</b>	8	50.0	0	0.0	0	0.0	1	6.3	1	6.3	3	18.8	0	0.0
<b>Food &amp; Drug</b>	7	9.0	0	0.0	9	11.5	2	2.6	1	1.3	9	11.5	1	1.3
<b>Other Miscellaneous Offenses</b>	89	4.1	2	0.1	67	3.1	27	1.3	18	0.8	178	8.3	26	1.2

<sup>1</sup> Of the 80,854 cases, 1,872 were excluded due to missing information from the submitted documents that prevented the comparison of the sentence and the guideline range. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

Figure A

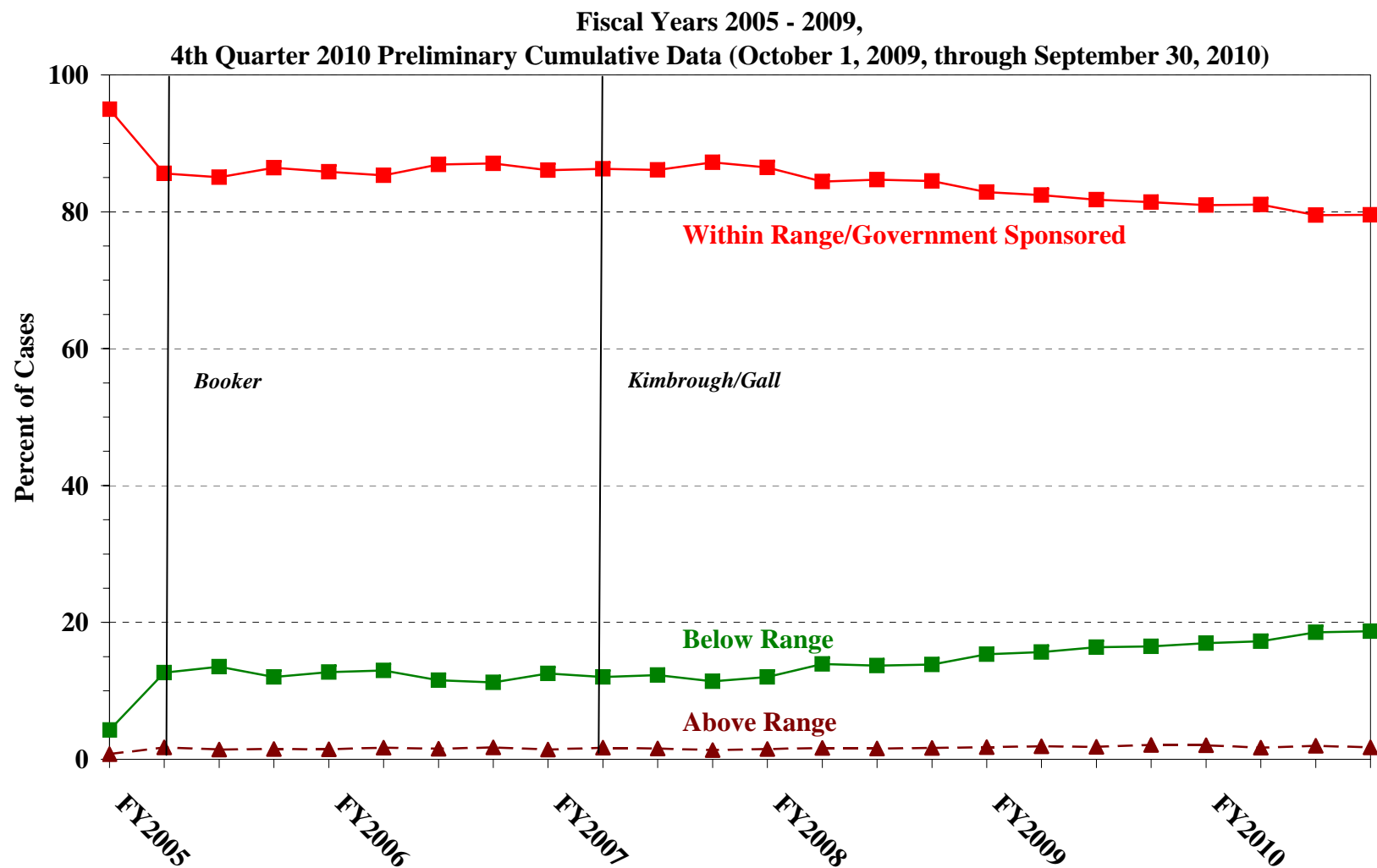
**QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES<sup>1</sup>**  
**Fiscal Years 2005 - 2009,**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**



<sup>1</sup> Descriptions of variables used in this table are provided in Appendix A.

Figure B

**QUARTERLY DATA FOR WITHIN RANGE/GOVERNMENT SPONSORED  
AND OTHER OUT OF RANGE SENTENCES<sup>1</sup>**



<sup>1</sup> Descriptions of variables used in this table are provided in Appendix A.

Table 4

**QUARTERLY DATA FOR WITHIN RANGE AND OUT OF RANGE SENTENCES<sup>1</sup>**  
**Fiscal Years 2005 - 2009,**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

<b>FISCAL YEAR</b>	<b>WITHIN GUIDELINE RANGE</b>	<b>GOVERNMENT SPONSORED BELOW RANGE</b>	<b>BELOW RANGE</b>	<b>ABOVE RANGE</b>
Quarter	%	%	%	%
<b>FY2005</b>				
1st Quarter	70.5	24.5	4.3	0.8
2ndQuarter	62.0	23.6	12.6	1.7
3rd Quarter	61.8	23.3	13.5	1.4
4th Quarter	62.3	24.2	12.0	1.5
<b>FY2006</b>				
1st Quarter	61.8	24.0	12.7	1.4
2ndQuarter	60.8	24.5	13.0	1.7
3rd Quarter	62.1	24.8	11.5	1.6
4th Quarter	62.1	24.9	11.2	1.7
<b>FY2007</b>				
1st Quarter	60.7	25.3	12.5	1.4
2ndQuarter	61.3	25.0	12.0	1.7
3rd Quarter	59.9	26.3	12.3	1.6
4th Quarter	61.4	25.8	11.4	1.4
<b>FY2008</b>				
1st Quarter	60.0	26.5	12.0	1.5
2ndQuarter	58.9	25.5	13.9	1.7
3rd Quarter	59.6	25.1	13.7	1.6
4th Quarter	59.2	25.3	13.9	1.7
<b>FY2009</b>				
1st Quarter	58.4	24.5	15.3	1.8
2ndQuarter	57.5	25.0	15.7	1.9
3rd Quarter	55.9	25.8	16.4	1.8
4th Quarter	55.6	25.8	16.5	2.1
<b>FY2010</b>				
1st Quarter	55.0	26.0	17.0	2.1
2ndQuarter	55.2	25.9	17.2	1.7
3rd Quarter	54.1	25.4	18.5	2.0
4th Quarter	53.9	25.6	18.7	1.7

<sup>1</sup> Descriptions of variables used in this table are provided in Appendix A.

**SENTENCES RELATIVE TO THE GUIDELINE RANGE  
BY EACH PRIMARY SENTENCING GUIDELINE<sup>1</sup>**

**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

Guideline	Total	Within Guideline Range	Upward				Government Sponsored			Downward			
			Departure		Above Range		\$5K1.1	\$5K3.1	Other Gov't	Departure		Below Range	
			Gdline Only	with Booker	with Booker	All Others				Gdline Only	with Booker	with Booker	All Others
\$2A1.1	131	79	0	0	1	0	27	0	8	0	2	12	2
\$2A1.2	40	24	2	2	2	2	2	0	4	0	0	1	1
\$2A1.3	28	15	5	3	3	0	1	0	0	0	0	1	0
\$2A1.4	48	29	5	2	6	1	0	0	2	0	0	2	1
\$2A1.5	20	7	0	0	0	0	2	0	0	1	0	4	6
\$2A2.1	84	39	0	1	2	0	21	0	7	3	0	6	5
\$2A2.2	337	179	7	3	7	0	10	1	55	11	13	48	3
\$2A2.3	32	25	0	0	1	1	0	0	0	0	0	3	2
\$2A2.4	148	92	1	1	1	1	0	6	11	9	2	20	4
\$2A3.1	102	59	1	0	5	0	2	0	20	0	1	13	1
\$2A3.2	49	33	1	1	2	0	0	0	4	1	1	6	0
\$2A3.3	8	5	0	0	0	0	1	0	2	0	0	0	0
\$2A3.4	37	27	0	0	2	0	0	0	4	1	0	2	1
\$2A3.5	243	159	3	0	11	1	2	0	9	4	4	48	2
\$2A4.1	87	32	1	0	1	0	24	0	8	0	0	20	1
\$2A4.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2A5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2A5.2	20	6	0	0	2	0	2	0	3	2	0	4	1
\$2A5.3	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2A6.1	141	64	3	2	18	0	2	1	15	5	4	26	1
\$2A6.2	13	8	2	0	0	0	0	0	1	1	0	1	0
\$2B1.1	8,182	4,611	38	24	136	21	1,137	9	309	140	116	1,493	148
\$2B1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B1.4	9	1	0	0	0	0	3	0	0	0	0	5	0
\$2B1.5	19	2	0	0	0	0	3	0	4	0	0	10	0
\$2B1.6 <sup>2</sup>	--	--	--	--	--	--	--	--	--	--	--	--	--
\$2B2.1	55	34	3	0	1	0	3	0	1	0	1	10	2
\$2B2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B2.3	5	5	0	0	0	0	0	0	0	0	0	0	0
\$2B3.1	1,807	942	24	9	58	12	291	2	64	41	41	308	15
\$2B3.2	59	20	0	0	1	0	9	0	17	0	0	11	1
\$2B3.3	4	1	0	0	0	0	0	0	1	0	0	1	1
\$2B4.1	54	17	0	0	1	0	13	0	1	1	2	18	1
\$2B5.1	481	303	5	0	8	0	44	0	13	10	6	79	13
\$2B5.2	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B5.3	184	61	1	0	0	1	46	0	15	3	3	46	8
\$2B5.4	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2B6.1	28	10	0	0	1	0	9	0	0	0	0	7	1
\$2C1.1	274	80	1	1	5	0	89	0	12	1	3	80	2
\$2C1.2	31	10	0	0	0	0	13	0	1	1	1	5	0
\$2C1.3	11	11	0	0	0	0	0	0	0	0	0	0	0
\$2C1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2C1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2C1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2C1.7	1	0	0	0	0	0	1	0	0	0	0	0	0
\$2C1.8	3	1	0	0	0	0	2	0	0	0	0	0	0
\$2D1.1	23,005	10,365	66	16	104	23	5,561	1,303	971	358	300	3,722	216
\$2D1.2	593	397	3	0	4	4	69	0	21	9	1	79	6
\$2D1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
\$2D1.4	0	0	0	0	0	0	0	0	0	0	0	0	0



Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward Departure		Above Range		Government Sponsored			Downward Departure		Below Range	
			Gdline Only	with Booker	with Booker	All Others	\$5K1.1	\$5K3.1	Other Gov't	Gdline Only	with Booker	with Booker	All Others
§2H4.1	9	5	0	0	1	0	0	0	2	0	0	1	0
§2H4.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.2	152	57	1	0	4	1	28	0	14	0	1	44	2
§2J1.3	54	24	1	0	1	0	7	0	2	3	1	15	0
§2J1.4	22	15	0	1	1	0	2	0	1	0	0	1	1
§2J1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.6	63	50	0	0	2	0	1	1	2	0	1	6	0
§2J1.7	1	0	0	0	0	0	0	0	0	0	0	1	0
§2J1.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2J1.9	1	1	0	0	0	0	0	0	0	0	0	0	0
§2K1.1	2	2	0	0	0	0	0	0	0	0	0	0	0
§2K1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.3	13	5	0	0	0	0	5	0	0	1	0	2	0
§2K1.4	81	35	4	0	2	1	24	0	2	1	1	11	0
§2K1.5	4	4	0	0	0	0	0	0	0	0	0	0	0
§2K1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K1.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.1	6,020	3,695	42	16	113	13	502	7	293	110	73	1,096	60
§2K2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K2.4 <sup>3</sup>	--	--	--	--	--	--	--	--	--	--	--	--	--
§2K2.5	14	10	2	0	2	0	0	0	0	0	0	0	0
§2K2.6	3	1	0	0	0	0	0	0	0	0	0	2	0
§2K3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2K3.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L1.1	2,478	1,287	15	4	19	3	166	689	72	32	9	156	26
§2L1.2	19,183	10,836	47	12	222	10	62	5,132	518	665	109	1,415	155
§2L1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.1	331	183	1	0	7	0	48	0	25	0	3	54	10
§2L2.2	1,420	1,207	6	1	21	4	6	63	13	7	2	71	19
§2L2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2L2.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M1.1	1	0	0	0	0	0	0	0	0	0	1	0	0
§2M2.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M2.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.1	1	1	0	0	0	0	0	0	0	0	0	0	0
§2M3.2	1	0	0	0	0	0	0	0	1	0	0	0	0
§2M3.3	1	0	0	0	0	0	0	0	0	0	1	0	0
§2M3.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M3.9	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M4.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M5.1	10	2	0	0	0	0	3	0	1	0	0	4	0
§2M5.2	59	26	2	0	2	0	14	0	2	7	1	5	0
§2M5.3	20	1	0	0	0	0	8	0	3	2	4	2	0
§2M6.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2M6.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2N1.1	4	0	0	0	1	0	0	0	3	0	0	0	0
§2N1.2	1	0	0	0	0	0	0	0	1	0	0	0	0

Table 5 (cont.)

Guideline	Total	Within Guideline Range	Upward		Above Range		Government Sponsored			Downward		Below Range	
			Departure		with Booker	All Others	\$5K1.1	\$5K3.1	Other Gov't	Departure		with Booker	All Others
			Gdline Only	with Booker						Gdline Only	with Booker		
§2N1.3	1	0	0	0	0	0	0	0	0	0	0	0	1
§2N2.1	35	32	0	0	2	0	1	0	0	0	0	0	0
§2N3.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2P1.1	236	175	0	2	6	0	6	3	4	3	2	31	4
§2P1.2	117	86	0	0	1	0	3	0	18	2	0	6	1
§2P1.3	17	14	0	0	1	0	1	0	1	0	0	0	0
§2P1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.2	39	18	0	0	0	0	2	0	4	1	2	12	0
§2Q1.3	28	14	0	0	0	0	5	0	5	2	0	2	0
§2Q1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q1.6	0	0	0	0	0	0	0	0	0	0	0	0	0
§2Q2.1	70	42	1	0	0	0	3	0	3	2	2	14	3
§2Q2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2R1.1	11	2	0	0	0	0	4	0	0	1	1	3	0
§2S1.1	931	292	0	0	4	0	336	2	60	15	8	202	12
§2S1.2	1	0	0	0	0	0	1	0	0	0	0	0	0
§2S1.3	301	132	1	0	0	0	33	16	39	11	4	58	7
§2S1.4	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.1	521	178	0	2	4	0	84	0	33	19	7	178	16
§2T1.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.3	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.4	125	50	0	0	0	0	15	0	7	6	4	40	3
§2T1.5	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.6	22	5	0	0	0	0	2	0	0	7	0	8	0
§2T1.7	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.8	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T1.9	22	6	0	0	1	0	7	0	0	2	2	4	0
§2T2.1	2	2	0	0	0	0	0	0	0	0	0	0	0
§2T2.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T3.1	20	7	0	0	0	0	3	1	1	0	2	6	0
§2T3.2	0	0	0	0	0	0	0	0	0	0	0	0	0
§2T4.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X1.1	37	13	0	0	0	0	7	0	1	2	0	14	0
§2X2.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X3.1	99	49	0	0	2	0	17	0	7	0	2	20	2
§2X4.1	402	207	2	0	5	2	46	4	26	7	5	89	9
§2X5.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X5.2	183	166	0	2	8	1	0	0	1	0	1	2	2
§2X6.1	0	0	0	0	0	0	0	0	0	0	0	0	0
§2X7.1	1	0	0	0	0	0	0	0	0	0	0	1	0
§2X7.2	4	2	0	0	0	0	1	0	0	0	0	1	0
<b>TOTAL</b>	<b>72,722</b>	<b>38,150</b>	<b>327</b>	<b>112</b>	<b>871</b>	<b>107</b>	<b>9,120</b>	<b>7,241</b>	<b>3,009</b>	<b>1,568</b>	<b>828</b>	<b>10,558</b>	<b>831</b>

<sup>1</sup> Of the 80,854 cases, 8,132 were excluded due to one or both of the following reasons: missing information from the submitted documents that prevented the comparison of the sentence and the guideline range (1,872) or missing guideline applied (8,036). Descriptions of variables used in this table are provided in Appendix A.

<sup>2</sup> In 804 cases, the defendant was convicted of one or more counts of violating 18 U.S.C. § 1028A. By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 804 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

<sup>3</sup> In 2,312 cases, the defendant was convicted of one or more counts of violating 18 U.S.C. § 924(c). By statute, the punishment for this crime must be served consecutively to any other punishment, therefore, in these 2,312 cases the conviction for this crime did not affect the guideline calculation for the underlying offense.

Table 6

**ATTRIBUTION CATEGORY FOR CASES OUTSIDE OF THE GUIDELINE RANGE<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

	TOTAL CASES	Pursuant to a Plea Agreement									
		§5K1.1		§5K3.1		Binding Plea		Plea w/ Departure Court		Plea Agreement States Gov't	
		Plea Agreement		Plea Agreement		Accepted by Court		Finds Reasonable		Will Not Oppose	
		N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>35,879</b>	<b>6,000</b>	<b>16.7</b>	<b>7,607</b>	<b>21.2</b>	<b>3,216</b>	<b>9.0</b>	<b>1,656</b>	<b>4.6</b>	<b>166</b>	<b>0.5</b>
<b>Above Range</b>	<b>1,473</b>	<b>9</b>	<b>0.6</b>	<b>8</b>	<b>0.5</b>	<b>212</b>	<b>14.4</b>	<b>94</b>	<b>6.4</b>	<b>0</b>	<b>0.0</b>
Upward Departure From Guideline Range	343	1	0.3	1	0.3	85	24.8	39	11.4	0	0.0
Upward Departure With <i>Booker</i> /18 U.S.C. § 3553	114	1	0.9	0	0.0	20	17.5	4	3.5	0	0.0
Above Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	893	0	0.0	0	0.0	102	11.4	49	5.5	0	0.0
All Remaining Cases Above Guideline Range	123	7	5.7	7	5.7	5	4.1	2	1.6	0	0.0
<b>Government Sponsored Below Range</b>	<b>20,314</b>	<b>5,991</b>	<b>29.5</b>	<b>7,599</b>	<b>37.4</b>	<b>3,004</b>	<b>14.8</b>	<b>1,562</b>	<b>7.7</b>	<b>166</b>	<b>0.8</b>
§5K1.1 Substantial Assistance Departure	9,192	5,991	65.2	116	1.3	191	2.1	139	1.5	23	0.3
§5K3.1 Early Disposition Program Departure	7,998	0	0.0	7,483	93.6	1,240	15.5	485	6.1	15	0.2
Other Government Sponsored Below Range	3,124	0	0.0	0	0.0	1,573	50.4	938	30.0	128	4.1
<b>Below Range</b>	<b>14,092</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>
Downward Departure From Guideline Range	1,623	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downward Departure With <i>Booker</i> /18 U.S.C. § 3553	835	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Below Guideline Range With <i>Booker</i> /18 U.S.C. § 3553	10,769	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Remaining Cases Below Guideline Range	865	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0

Table 6 (cont.)

	Pursuant to a Motion Not in a Plea Agreement													
	§5K1.1		§5K3.1		Other		Defense Motion/ Government		Defense Motion/ Government		Other than a Plea/Motion		No Information	
	Government Motion		Government Motion		Government Motion		Did Not Object		Did Object		by Parties		Available	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
TOTAL	2,969	8.3	215	0.6	1,072	3.0	4,265	11.9	4,541	12.7	6,151	17.1	3,961	11.0
Above Range	4	0.3	0	0.0	214	14.5	9	0.6	9	0.6	735	49.9	297	20.2
Upward Departure From Guideline Range	1	0.3	0	0.0	63	18.4	5	1.5	4	1.2	119	34.7	49	14.3
Upward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	30	26.3	1	0.9	1	0.9	101	88.6	16	14.0
Above Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	116	13.0	3	0.3	4	0.4	507	56.8	132	14.8
All Remaining Cases Above Guideline Range	3	2.4	0	0.0	5	4.1	0	0.0	0	0.0	8	6.5	100	81.3
Government Sponsored Below Range	2,965	14.6	215	1.1	858	4.2	1,048	5.2	704	3.5	788	3.9	539	2.7
§5K1.1 Substantial Assistance Departure	2,965	32.3	2	0.0	272	3.0	426	4.6	323	3.5	461	5.0	194	2.1
§5K3.1 Early Disposition Program Departure	0	0.0	213	2.7	28	0.4	360	4.5	289	3.6	113	1.4	282	3.5
Other Government Sponsored Below Range	0	0.0	0	0.0	558	17.9	262	8.4	92	2.9	214	6.9	63	2.0
Below Range	0	0.0	0	0.0	0	0.0	3,208	22.8	3,828	27.2	4,628	32.8	3,125	22.2
Downward Departure From Guideline Range	0	0.0	0	0.0	0	0.0	689	42.5	292	18.0	463	28.5	223	13.7
Downward Departure With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	283	33.9	387	46.3	456	54.6	129	15.4
Below Guideline Range With <i>Booker</i> / 18 U.S.C. § 3553	0	0.0	0	0.0	0	0.0	2,184	20.3	3,109	28.9	3,684	34.2	2,016	18.7
All Remaining Cases Below Guideline Range	0	0.0	0	0.0	0	0.0	52	6.0	40	4.6	25	2.9	757	87.5

<sup>1</sup> Multiple attributions may be made on the SOR. Therefore, the numbers reported in this table may exceed the number of total cases. For example, among SORs with an attribution, 5,261 cases indicated more than one attribution. Note that only outside of the range cases are included in this table. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**§5K1.1 SUBSTANTIAL ASSISTANCE DEPARTURE CASES: DEGREE OF  
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>8,760</b>	<b>36.0</b>	<b>30.0</b>	<b>50.0</b>
Murder	6	9.3	65.0	88.2
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	8	108.0	101.5	50.6
Sexual Abuse	9	60.0	48.0	45.2
Assault	5	0.0	12.0	100.0
Robbery	96	39.5	25.5	39.5
Arson	17	37.0	20.0	33.3
Drugs - Trafficking	5,405	48.0	42.0	46.6
Drugs - Communication Facility	50	18.0	17.0	50.0
Drugs - Simple Possession	7	1.0	5.0	83.3
Firearms	813	57.0	32.0	41.7
Burglary/B&E	2	--	--	--
Auto Theft	17	6.0	10.0	50.0
Larceny	76	0.0	12.0	100.0
Fraud	1,106	9.0	16.0	68.4
Embezzlement	15	6.0	8.7	58.3
Forgery/Counterfeiting	78	0.0	10.0	99.9
Bribery	68	12.0	18.0	68.3
Tax	96	0.0	12.0	100.0
Money Laundering	181	14.0	25.0	73.3
Racketeering/Extortion	135	24.0	27.0	53.3
Gambling/Lottery	6	0.0	6.0	100.0
Civil Rights	10	7.0	16.5	75.9
Immigration	261	12.0	11.7	50.0
Pornography/Prostitution	67	90.0	45.0	33.3
Prison Offenses	10	0.5	8.0	95.4
Administration of Justice Offenses	96	0.0	12.0	100.0
Environmental/Wildlife	7	0.0	16.8	100.0
National Defense	16	20.0	32.0	58.7
Antitrust	4	0.0	12.0	99.8
Food & Drug	6	0.0	16.0	100.0
Other Miscellaneous Offenses	87	3.3	17.6	83.8

<sup>1</sup> Of the 80,854 cases, 9,192 received a §5K1.1 substantial assistance departure. Of these, 8,883 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 110 cases were also excluded from this table. Of the remaining 8,773 cases, 13 were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**§5K3.1 EARLY DISPOSITION PROGRAM DEPARTURE CASES: DEGREE OF  
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

<b>PRIMARY OFFENSE</b>	<b>N</b>	<b>Median Sentence in Months</b>	<b>Median Decrease in Months From Guideline Minimum</b>	<b>Median Percent Decrease From Guideline Minimum</b>
<b>TOTAL</b>	<b>7,092</b>	<b>18.0</b>	<b>7.0</b>	<b>28.6</b>
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	0	--	--	--
Assault	5	12.0	6.0	33.3
Robbery	2	--	--	--
Arson	0	--	--	--
Drugs - Trafficking	1,263	18.0	10.0	34.8
Drugs - Communication Facility	2	--	--	--
Drugs - Simple Possession	3	4.7	6.0	57.7
Firearms	8	15.0	10.0	27.6
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	3	0.0	8.0	100.0
Fraud	4	5.5	10.6	60.7
Embezzlement	2	--	--	--
Forgery/Counterfeiting	2	--	--	--
Bribery	0	--	--	--
Tax	4	14.0	10.0	39.9
Money Laundering	14	3.1	5.5	65.1
Racketeering/Extortion	0	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	5,771	18.0	6.0	28.3
Pornography/Prostitution	0	--	--	--
Prison Offenses	3	15.0	8.0	33.3
Administration of Justice Offenses	5	8.0	8.4	47.4
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	1	--	--	--

<sup>1</sup> Of the 80,854 cases, 7,998 received a §5K3.1 early disposition program departure. Of these, 7,092 had complete guideline application information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**OTHER GOVERNMENT SPONSORED BELOW RANGE CASES: DEGREE OF  
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

<b>PRIMARY OFFENSE</b>	<b>N</b>	<b>Median Sentence in Months</b>	<b>Median Decrease in Months From Guideline Minimum</b>	<b>Median Percent Decrease From Guideline Minimum</b>
<b>TOTAL</b>	<b>2,915</b>	<b>27.0</b>	<b>15.0</b>	<b>37.1</b>
<b>Murder</b>	4	171.5	41.0	22.6
<b>Manslaughter</b>	2	--	--	--
<b>Kidnapping/Hostage Taking</b>	1	--	--	--
<b>Sexual Abuse</b>	44	37.0	23.0	35.2
<b>Assault</b>	65	23.0	18.0	51.4
<b>Robbery</b>	38	57.0	26.0	31.4
<b>Arson</b>	2	--	--	--
<b>Drugs - Trafficking</b>	919	66.0	29.0	31.3
<b>Drugs - Communication Facility</b>	29	18.0	24.0	50.0
<b>Drugs - Simple Possession</b>	3	0.0	12.0	100.0
<b>Firearms</b>	361	46.0	17.0	31.3
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	1	--	--	--
<b>Larceny</b>	36	0.0	7.0	100.0
<b>Fraud</b>	257	6.0	11.0	70.7
<b>Embezzlement</b>	17	0.0	8.0	100.0
<b>Forgery/Counterfeiting</b>	23	3.0	10.0	57.6
<b>Bribery</b>	9	18.0	10.0	45.9
<b>Tax</b>	32	0.1	12.0	98.9
<b>Money Laundering</b>	64	4.8	12.0	64.2
<b>Racketeering/Extortion</b>	56	72.0	36.5	42.8
<b>Gambling/Lottery</b>	1	--	--	--
<b>Civil Rights</b>	1	--	--	--
<b>Immigration</b>	605	12.0	5.0	33.3
<b>Pornography/Prostitution</b>	203	60.0	42.0	38.1
<b>Prison Offenses</b>	23	12.0	6.0	37.5
<b>Administration of Justice Offenses</b>	51	0.0	12.0	100.0
<b>Environmental/Wildlife</b>	6	0.0	10.0	100.0
<b>National Defense</b>	4	54.0	22.5	21.3
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	4	9.0	31.5	79.9
<b>Other Miscellaneous Offenses</b>	53	0.0	12.0	100.0

<sup>1</sup> Of the 80,854 cases, 3,124 received an other government sponsored downward departure. Of these, 2,931 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 14 cases were also excluded from this table. Of the remaining 2,917 cases, two were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**DOWNWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF  
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

<b>PRIMARY OFFENSE</b>	<b>N</b>	<b>Median Sentence in Months</b>	<b>Median Decrease in Months From Guideline Minimum</b>	<b>Median Percent Decrease From Guideline Minimum</b>
<b>TOTAL</b>	<b>1,539</b>	<b>24.0</b>	<b>10.0</b>	<b>29.8</b>
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	5	18.0	12.0	25.0
Assault	17	6.0	8.0	50.0
Robbery	36	45.0	15.5	23.9
Arson	1	--	--	--
Drugs - Trafficking	337	54.0	14.0	26.8
Drugs - Communication Facility	17	30.0	17.0	33.3
Drugs - Simple Possession	1	--	--	--
Firearms	123	36.0	9.0	20.0
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	20	0.0	8.5	100.0
Fraud	114	12.5	9.0	40.7
Embezzlement	7	3.0	10.0	62.5
Forgery/Counterfeiting	12	2.5	11.0	86.0
Bribery	1	--	--	--
Tax	32	6.5	11.0	60.0
Money Laundering	14	15.0	6.0	53.1
Racketeering/Extortion	14	46.0	21.0	26.3
Gambling/Lottery	1	--	--	--
Civil Rights	0	--	--	--
Immigration	696	18.0	7.0	28.6
Pornography/Prostitution	40	60.0	30.0	33.0
Prison Offenses	5	4.0	15.0	68.4
Administration of Justice Offenses	12	0.0	12.0	100.0
Environmental/Wildlife	2	--	--	--
National Defense	7	16.4	16.0	45.4
Antitrust	1	--	--	--
Food & Drug	2	--	--	--
Other Miscellaneous Offenses	22	0.0	8.0	100.0

<sup>1</sup> Of the 80,854 cases, 1,623 received a downward departure from the guideline range. Of these, 1,540 had complete guideline application information. Of the remaining 1,540 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**DOWNWARD DEPARTURES WITH *BOOKER* /18 U.S.C. § 3553: DEGREE  
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>788</b>	<b>24.0</b>	<b>18.0</b>	<b>42.7</b>
Murder	0	--	--	--
Manslaughter	0	--	--	--
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	5	24.0	8.0	55.6
Assault	13	12.0	15.0	50.0
Robbery	30	24.0	21.0	41.4
Arson	1	--	--	--
Drugs - Trafficking	271	51.0	27.0	36.2
Drugs - Communication Facility	17	10.0	30.0	73.8
Drugs - Simple Possession	0	--	--	--
Firearms	93	36.0	17.0	36.8
Burglary/B&E	1	--	--	--
Auto Theft	0	--	--	--
Larceny	9	0.0	12.0	100.0
Fraud	93	7.0	12.0	62.5
Embezzlement	7	1.0	8.0	87.5
Forgery/Counterfeiting	8	8.0	9.5	47.0
Bribery	4	3.0	10.5	79.2
Tax	13	2.0	17.0	88.9
Money Laundering	8	12.0	22.5	42.1
Racketeering/Extortion	11	5.0	18.0	76.2
Gambling/Lottery	0	--	--	--
Civil Rights	1	--	--	--
Immigration	116	21.0	11.0	36.6
Pornography/Prostitution	53	60.0	54.0	43.3
Prison Offenses	2	--	--	--
Administration of Justice Offenses	10	2.0	14.0	81.0
Environmental/Wildlife	1	--	--	--
National Defense	4	78.0	270.0	78.3
Antitrust	1	--	--	--
Food & Drug	1	--	--	--
Other Miscellaneous Offenses	15	0.0	12.0	100.0

<sup>1</sup> Of the 80,854 cases, 835 received a downward departure from the guideline range with *Booker* /18 U.S.C. § 3553. Of these, 791 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional two cases were also excluded from this table. Of the remaining 789 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**BELOW GUIDELINE RANGE WITH *BOOKER*/18 U.S.C. § 3553: DEGREE  
OF DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Decrease in Months From Guideline Minimum	Median Percent Decrease From Guideline Minimum
<b>TOTAL</b>	<b>10,260</b>	<b>27.0</b>	<b>13.0</b>	<b>34.8</b>
<b>Murder</b>	2	--	--	--
<b>Manslaughter</b>	3	18.0	30.0	40.0
<b>Kidnapping/Hostage Taking</b>	6	78.5	114.5	53.6
<b>Sexual Abuse</b>	67	18.0	12.0	33.3
<b>Assault</b>	79	15.0	12.0	36.4
<b>Robbery</b>	178	41.5	16.0	26.5
<b>Arson</b>	9	36.0	18.0	34.8
<b>Drugs - Trafficking</b>	3,552	60.0	19.0	29.0
<b>Drugs - Communication Facility</b>	127	24.0	18.0	45.5
<b>Drugs - Simple Possession</b>	5	60.0	10.0	19.4
<b>Firearms</b>	1,312	35.5	14.0	27.0
<b>Burglary/B&amp;E</b>	9	0.0	9.0	100.0
<b>Auto Theft</b>	15	0.0	10.0	100.0
<b>Larceny</b>	202	0.0	10.0	100.0
<b>Fraud</b>	1,225	12.0	10.0	51.5
<b>Embezzlement</b>	67	0.0	8.0	99.6
<b>Forgery/Counterfeiting</b>	118	4.6	7.0	66.8
<b>Bribery</b>	53	6.0	12.0	70.0
<b>Tax</b>	192	4.5	12.0	75.0
<b>Money Laundering</b>	170	12.0	13.0	55.5
<b>Racketeering/Extortion</b>	108	24.0	14.8	33.7
<b>Gambling/Lottery</b>	18	0.0	8.0	100.0
<b>Civil Rights</b>	10	9.0	9.0	50.0
<b>Immigration</b>	1,634	20.0	10.0	33.2
<b>Pornography/Prostitution</b>	662	60.0	37.0	38.1
<b>Prison Offenses</b>	37	8.7	6.0	42.3
<b>Administration of Justice Offenses</b>	189	5.0	10.0	71.4
<b>Environmental/Wildlife</b>	22	0.0	8.5	100.0
<b>National Defense</b>	7	48.0	46.0	44.4
<b>Antitrust</b>	3	7.0	6.0	33.2
<b>Food &amp; Drug</b>	9	5.0	21.0	80.5
<b>Other Miscellaneous Offenses</b>	170	0.1	10.0	98.8

<sup>1</sup> Of the 80,854 cases, 10,769 were sentenced below the guideline range with *Booker*/18 U.S.C § 3553. Of these, 10,297 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional 35 cases were also excluded from this table. Of the remaining 10,262 cases, two were excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**ALL REMAINING BELOW GUIDELINE RANGE CASES: DEGREE OF  
DECREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

<b>PRIMARY OFFENSE</b>	<b>N</b>	<b>Median Sentence in Months</b>	<b>Median Decrease in Months From Guideline Minimum</b>	<b>Median Percent Decrease From Guideline Minimum</b>
<b>TOTAL</b>	<b>782</b>	<b>11.3</b>	<b>6.0</b>	<b>47.5</b>
<b>Murder</b>	0	--	--	--
<b>Manslaughter</b>	0	--	--	--
<b>Kidnapping/Hostage Taking</b>	0	--	--	--
<b>Sexual Abuse</b>	2	--	--	--
<b>Assault</b>	6	6.7	4.9	52.3
<b>Robbery</b>	7	40.0	6.0	29.8
<b>Arson</b>	0	--	--	--
<b>Drugs - Trafficking</b>	180	45.5	13.0	33.3
<b>Drugs - Communication Facility</b>	7	12.0	18.0	59.9
<b>Drugs - Simple Possession</b>	4	18.0	6.0	42.4
<b>Firearms</b>	94	60.0	12.0	21.8
<b>Burglary/B&amp;E</b>	1	--	--	--
<b>Auto Theft</b>	1	--	--	--
<b>Larceny</b>	30	0.0	6.0	100.0
<b>Fraud</b>	103	3.0	6.0	71.4
<b>Embezzlement</b>	8	0.0	6.0	99.6
<b>Forgery/Counterfeiting</b>	13	0.0	6.0	100.0
<b>Bribery</b>	4	3.7	6.4	47.2
<b>Tax</b>	18	0.0	6.0	100.0
<b>Money Laundering</b>	13	6.0	12.0	66.7
<b>Racketeering/Extortion</b>	6	25.5	9.5	43.1
<b>Gambling/Lottery</b>	0	--	--	--
<b>Civil Rights</b>	4	0.0	12.0	100.0
<b>Immigration</b>	203	5.7	3.0	48.6
<b>Pornography/Prostitution</b>	31	96.0	42.0	28.6
<b>Prison Offenses</b>	5	9.0	6.0	40.0
<b>Administration of Justice Offenses</b>	15	0.0	6.0	100.0
<b>Environmental/Wildlife</b>	4	0.9	5.1	84.3
<b>National Defense</b>	0	--	--	--
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	1	--	--	--
<b>Other Miscellaneous Offenses</b>	22	0.0	6.0	100.0

<sup>1</sup> Of the 80,854 cases, 865 were otherwise sentenced below the guideline range. Of these, 786 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a guideline minimum of life, an additional three cases were also excluded from this table. Of the remaining 783 cases, one was excluded due to missing sentence information. Note that the information presented in this table does include sentences of probation, but does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**UPWARD DEPARTURES FROM GUIDELINE RANGE: DEGREE OF  
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
<b>TOTAL</b>	<b>316</b>	<b>60.0</b>	<b>12.0</b>	<b>37.7</b>
Murder	2	--	--	--
Manslaughter	7	96.0	33.0	53.8
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	6	79.5	30.5	54.1
Assault	10	60.5	23.5	74.6
Robbery	13	120.0	24.0	25.0
Arson	4	165.0	73.0	78.2
Drugs - Trafficking	57	96.0	12.0	25.0
Drugs - Communication Facility	1	--	--	--
Drugs - Simple Possession	4	36.0	27.0	100.0
Firearms	57	105.0	21.0	25.0
Burglary/B&E	2	--	--	--
Auto Theft	1	--	--	--
Larceny	6	28.0	6.5	75.0
Fraud	22	48.0	8.5	29.2
Embezzlement	1	--	--	--
Forgery/Counterfeiting	8	33.0	9.0	38.1
Bribery	1	--	--	--
Tax	0	--	--	--
Money Laundering	1	--	--	--
Racketeering/Extortion	5	120.0	10.0	24.4
Gambling/Lottery	8	18.0	11.0	183.3
Civil Rights	0	--	--	--
Immigration	69	30.0	8.0	48.1
Pornography/Prostitution	12	162.0	39.5	37.0
Prison Offenses	0	--	--	--
Administration of Justice Offenses	4	48.0	10.5	85.7
Environmental/Wildlife	2	--	--	--
National Defense	1	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	12	44.0	10.5	51.0

<sup>1</sup> Of the 80,854 cases, 343 received an upward departure from the guideline range. Of these, 319 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, one additional case was also excluded from this table. Furthermore, two cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**UPWARD DEPARTURES WITH *BOOKER* /18 U.S.C. § 3553: DEGREE OF  
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
<b>TOTAL</b>	<b>101</b>	<b>96.0</b>	<b>23.0</b>	<b>42.9</b>
Murder	1	--	--	--
Manslaughter	3	180.0	43.0	31.4
Kidnapping/Hostage Taking	0	--	--	--
Sexual Abuse	5	156.0	60.0	44.4
Assault	5	72.0	26.0	53.2
Robbery	5	196.0	30.0	24.8
Arson	0	--	--	--
Drugs - Trafficking	14	106.5	28.0	59.3
Drugs - Communication Facility	0	--	--	--
Drugs - Simple Possession	0	--	--	--
Firearms	20	120.0	24.0	40.8
Burglary/B&E	0	--	--	--
Auto Theft	0	--	--	--
Larceny	3	24.0	12.0	100.0
Fraud	15	87.0	21.0	33.3
Embezzlement	0	--	--	--
Forgery/Counterfeiting	3	12.0	6.0	100.0
Bribery	0	--	--	--
Tax	0	--	--	--
Money Laundering	0	--	--	--
Racketeering/Extortion	2	--	--	--
Gambling/Lottery	0	--	--	--
Civil Rights	0	--	--	--
Immigration	16	54.5	16.0	45.2
Pornography/Prostitution	3	360.0	125.0	53.2
Prison Offenses	2	--	--	--
Administration of Justice Offenses	0	--	--	--
Environmental/Wildlife	0	--	--	--
National Defense	0	--	--	--
Antitrust	0	--	--	--
Food & Drug	0	--	--	--
Other Miscellaneous Offenses	4	21.0	10.0	77.6

<sup>1</sup> Of the 80,854 cases, 114 received an upward departure from the guideline range with *Booker*/18 U.S.C § 3553. Of these, 106 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, one additional case was also excluded from this table. Furthermore, four cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ABOVE GUIDELINE RANGE WITH *BOOKER* /18 U.S.C. § 3553: DEGREE  
OF INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	N	Median Sentence in Months	Median Increase in Months From Guideline Maximum	Median Percent Increase From Guideline Maximum
<b>TOTAL</b>	<b>837</b>	<b>51.0</b>	<b>13.0</b>	<b>42.9</b>
<b>Murder</b>	3	300.0	90.0	42.9
<b>Manslaughter</b>	8	66.0	20.5	50.0
<b>Kidnapping/Hostage Taking</b>	3	300.0	65.0	50.0
<b>Sexual Abuse</b>	16	72.0	27.5	48.2
<b>Assault</b>	16	67.5	19.5	51.9
<b>Robbery</b>	30	140.5	33.0	39.6
<b>Arson</b>	1	--	--	--
<b>Drugs - Trafficking</b>	101	80.0	14.0	30.4
<b>Drugs - Communication Facility</b>	2	--	--	--
<b>Drugs - Simple Possession</b>	2	--	--	--
<b>Firearms</b>	148	96.0	19.0	31.4
<b>Burglary/B&amp;E</b>	0	--	--	--
<b>Auto Theft</b>	2	--	--	--
<b>Larceny</b>	19	30.0	8.0	50.0
<b>Fraud</b>	102	51.0	12.0	33.3
<b>Embezzlement</b>	0	--	--	--
<b>Forgery/Counterfeiting</b>	19	40.0	12.0	40.0
<b>Bribery</b>	1	--	--	--
<b>Tax</b>	4	43.5	12.0	19.6
<b>Money Laundering</b>	6	98.0	20.5	23.4
<b>Racketeering/Extortion</b>	8	186.0	48.0	38.1
<b>Gambling/Lottery</b>	0	--	--	--
<b>Civil Rights</b>	0	--	--	--
<b>Immigration</b>	253	24.0	8.0	50.0
<b>Pornography/Prostitution</b>	35	216.0	42.0	33.3
<b>Prison Offenses</b>	9	45.0	15.0	71.4
<b>Administration of Justice Offenses</b>	22	36.0	9.0	69.0
<b>Environmental/Wildlife</b>	1	--	--	--
<b>National Defense</b>	2	--	--	--
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	3	9.0	3.0	50.0
<b>Other Miscellaneous Offenses</b>	21	24.0	9.0	100.0

<sup>1</sup> Of the 80,854 cases, 893 were sentenced above the guideline range with *Booker*/ 18 U.S.C § 3553. Of these, 848 had complete guideline application information. Due to an inability to calculate the extent of departure for cases with a sentence of life, one additional case was also excluded from this table. Furthermore, ten cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

**ALL REMAINING ABOVE GUIDELINE RANGE CASES: DEGREE OF  
INCREASE FOR OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

<b>PRIMARY OFFENSE</b>	<b>N</b>	<b>Median Sentence in Months</b>	<b>Median Increase in Months From Guideline Maximum</b>	<b>Median Percent Increase From Guideline Maximum</b>
<b>TOTAL</b>	<b>76</b>	<b>68.0</b>	<b>12.0</b>	<b>20.0</b>
<b>Murder</b>	2	--	--	--
<b>Manslaughter</b>	1	--	--	--
<b>Kidnapping/Hostage Taking</b>	0	--	--	--
<b>Sexual Abuse</b>	1	--	--	--
<b>Assault</b>	0	--	--	--
<b>Robbery</b>	4	180.0	24.0	14.4
<b>Arson</b>	1	--	--	--
<b>Drugs - Trafficking</b>	17	110.0	13.0	17.5
<b>Drugs - Communication Facility</b>	1	--	--	--
<b>Drugs - Simple Possession</b>	0	--	--	--
<b>Firearms</b>	16	151.0	36.0	17.2
<b>Burglary/B&amp;E</b>	0	--	--	--
<b>Auto Theft</b>	0	--	--	--
<b>Larceny</b>	4	35.0	13.0	66.7
<b>Fraud</b>	12	30.0	8.5	44.8
<b>Embezzlement</b>	0	--	--	--
<b>Forgery/Counterfeiting</b>	0	--	--	--
<b>Bribery</b>	0	--	--	--
<b>Tax</b>	0	--	--	--
<b>Money Laundering</b>	0	--	--	--
<b>Racketeering/Extortion</b>	0	--	--	--
<b>Gambling/Lottery</b>	0	--	--	--
<b>Civil Rights</b>	1	--	--	--
<b>Immigration</b>	12	36.0	5.0	20.2
<b>Pornography/Prostitution</b>	3	108.0	11.0	11.3
<b>Prison Offenses</b>	0	--	--	--
<b>Administration of Justice Offenses</b>	1	--	--	--
<b>Environmental/Wildlife</b>	0	--	--	--
<b>National Defense</b>	0	--	--	--
<b>Antitrust</b>	0	--	--	--
<b>Food &amp; Drug</b>	0	--	--	--
<b>Other Miscellaneous Offenses</b>	0	--	--	--

<sup>1</sup> Of the 80,854 cases, 123 were otherwise sentenced above the guideline range. Of these, 100 had complete guideline application information. Furthermore, 24 cases were excluded due to several logical criteria. Note that the information presented in this table does not include any time of alternative confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

Table 18

**OFFENDERS RECEIVING SENTENCING OPTIONS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	TOTAL	TOTAL RECEIVING IMPRISONMENT		Prison Only		Prison/Community Split Sentence <sup>2</sup>		TOTAL RECEIVING PROBATION		Probation and Confinement		Probation Only	
		N	%	N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>80,127</b>	<b>72,120</b>	<b>90.0</b>	<b>70,142</b>	<b>87.5</b>	<b>1,978</b>	<b>2.5</b>	<b>8,007</b>	<b>10.0</b>	<b>2,227</b>	<b>2.8</b>	<b>5,780</b>	<b>7.2</b>
Murder	64	63	98.4	62	96.9	1	1.6	1	1.6	0	0.0	1	1.6
Manslaughter	62	61	98.4	60	96.8	1	1.6	1	1.6	1	1.6	0	0.0
Kidnapping/Hostage Taking	38	38	100.0	38	100.0	0	0.0	0	0.0	0	0.0	0	0.0
Sexual Abuse	473	458	96.8	446	94.3	12	2.5	15	3.2	9	1.9	6	1.3
Assault	600	504	84.0	480	80.0	24	4.0	96	16.0	21	3.5	75	12.5
Robbery	1,068	1,027	96.2	992	92.9	35	3.3	41	3.8	19	1.8	22	2.1
Arson	71	68	95.8	64	90.1	4	5.6	3	4.2	1	1.4	2	2.8
Drugs - Trafficking	22,995	22,199	96.5	21,630	94.1	569	2.5	796	3.5	310	1.3	486	2.1
Drugs - Communication Facility	506	420	83.0	410	81.0	10	2.0	86	17.0	27	5.3	59	11.7
Drugs - Simple Possession	802	519	64.7	518	64.6	1	0.1	283	35.3	22	2.7	261	32.5
Firearms	7,836	7,408	94.5	7,228	92.2	180	2.3	428	5.5	182	2.3	246	3.1
Burglary/B&E	35	26	74.3	26	74.3	0	0.0	9	25.7	5	14.3	4	11.4
Auto Theft	91	70	76.9	68	74.7	2	2.2	21	23.1	8	8.8	13	14.3
Larceny	1,418	585	41.3	518	36.5	67	4.7	833	58.7	215	15.2	618	43.6
Fraud	7,497	5,807	77.5	5,357	71.5	450	6.0	1,690	22.5	597	8.0	1,093	14.6
Embezzlement	414	185	44.7	144	34.8	41	9.9	229	55.3	51	12.3	178	43.0
Forgery/Counterfeiting	858	625	72.8	574	66.9	51	5.9	233	27.2	77	9.0	156	18.2
Bribery	218	160	73.4	145	66.5	15	6.9	58	26.6	25	11.5	33	15.1
Tax	629	400	63.6	341	54.2	59	9.4	229	36.4	106	16.9	123	19.6
Money Laundering	778	600	77.1	566	72.8	34	4.4	178	22.9	51	6.6	127	16.3
Racketeering/Extortion	649	586	90.3	570	87.8	16	2.5	63	9.7	16	2.5	47	7.2
Gambling/Lottery	72	24	33.3	23	31.9	1	1.4	48	66.7	18	25.0	30	41.7
Civil Rights	57	41	71.9	40	70.2	1	1.8	16	28.1	6	10.5	10	17.5
Immigration	27,252	26,295	96.5	26,086	95.7	209	0.8	957	3.5	142	0.5	815	3.0
Pornography/Prostitution	1,991	1,961	98.5	1,922	96.5	39	2.0	30	1.5	14	0.7	16	0.8
Prison Offenses	414	397	95.9	377	91.1	20	4.8	17	4.1	4	1.0	13	3.1
Administration of Justice Offenses	914	604	66.1	559	61.2	45	4.9	310	33.9	81	8.9	229	25.1
Environmental/Wildlife	132	41	31.1	34	25.8	7	5.3	91	68.9	13	9.8	78	59.1
National Defense	65	57	87.7	56	86.2	1	1.5	8	12.3	3	4.6	5	7.7
Antitrust	15	12	80.0	10	66.7	2	13.3	3	20.0	1	6.7	2	13.3
Food & Drug	70	26	37.1	21	30.0	5	7.1	44	62.9	5	7.1	39	55.7
Other Miscellaneous Offenses	2,043	853	41.8	777	38.0	76	3.7	1,190	58.2	197	9.6	993	48.6

<sup>1</sup> Of the 80,854 cases, 727 were excluded due to one or both of the following reasons: the offender received neither imprisonment nor probation (722) or missing sentencing information (5). Descriptions of variables used in this table are provided in Appendix A.

<sup>2</sup> Prison/Community Split Sentence includes all cases in which offenders received prison and conditions of confinement as described in USSG §5C1.1.

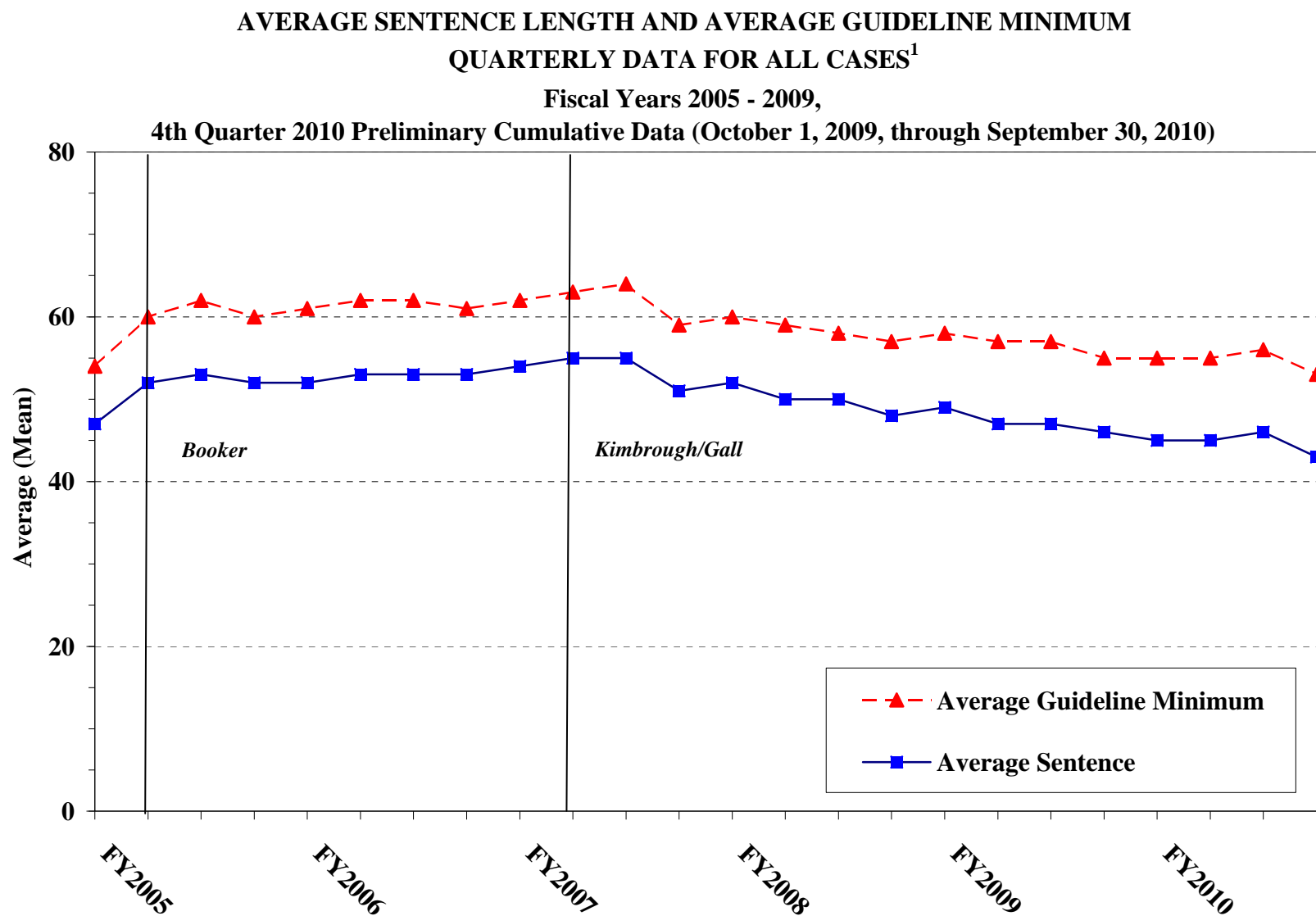
Table 19

**AVERAGE SENTENCE LENGTH IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

<b>PRIMARY OFFENSE</b>	<b>Mean Months</b>	<b>Median Months</b>	<b>N</b>
<b>TOTAL</b>	<b>45.0</b>	<b>24.0</b>	<b>80,834</b>
<b>Murder</b>	281.1	262.0	64
<b>Manslaughter</b>	73.4	44.0	62
<b>Kidnapping/Hostage Taking</b>	162.7	144.0	39
<b>Sexual Abuse</b>	91.2	60.0	474
<b>Assault</b>	34.7	24.0	608
<b>Robbery</b>	76.9	62.0	1,069
<b>Arson</b>	71.1	60.0	71
<b>Drugs - Trafficking</b>	74.9	60.0	22,998
<b>Drugs - Communication Facility</b>	34.4	33.0	506
<b>Drugs - Simple Possession</b>	3.7	2.0	834
<b>Firearms</b>	85.3	57.0	7,842
<b>Burglary/B&amp;E</b>	15.5	12.0	35
<b>Auto Theft</b>	51.0	24.0	91
<b>Larceny</b>	7.8	0.2	1,524
<b>Fraud</b>	24.3	12.0	7,533
<b>Embezzlement</b>	7.8	3.0	424
<b>Forgery/Counterfeiting</b>	14.7	12.0	859
<b>Bribery</b>	19.4	12.0	219
<b>Tax</b>	16.6	12.0	632
<b>Money Laundering</b>	30.9	15.0	778
<b>Racketeering/Extortion</b>	78.1	46.0	650
<b>Gambling/Lottery</b>	6.2	6.0	72
<b>Civil Rights</b>	23.1	12.0	59
<b>Immigration</b>	16.8	10.0	27,249
<b>Pornography/Prostitution</b>	116.0	78.0	1,993
<b>Prison Offenses</b>	15.5	12.0	415
<b>Administration of Justice Offenses</b>	17.1	10.0	930
<b>Environmental/Wildlife</b>	3.2	0.0	164
<b>National Defense</b>	53.6	33.0	65
<b>Antitrust</b>	7.4	8.0	16
<b>Food &amp; Drug</b>	10.7	0.0	81
<b>Other Miscellaneous Offenses</b>	6.6	0.0	2,478

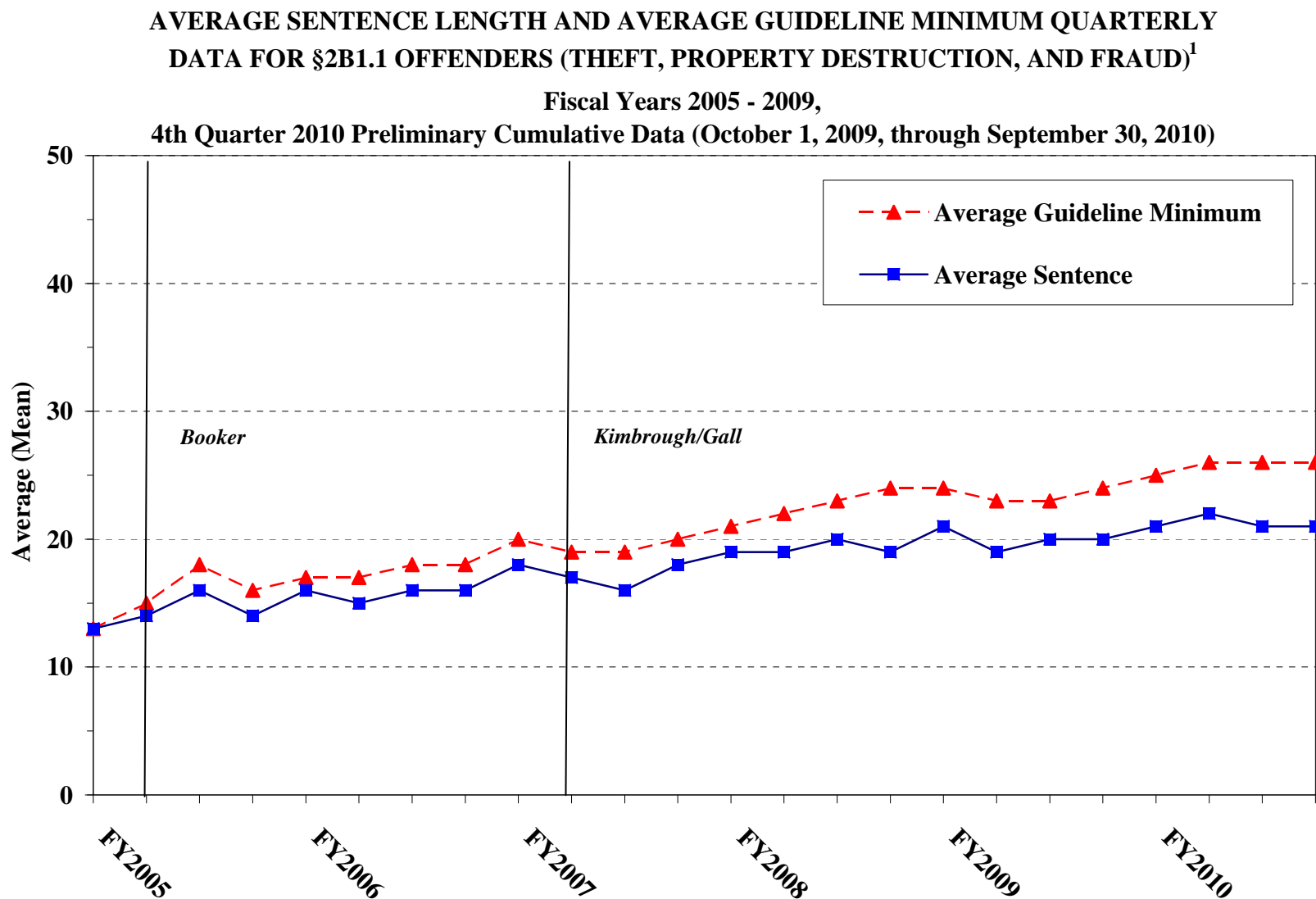
<sup>1</sup> Of the 80,854 cases, 20 were excluded due to missing or indeterminable sentencing information. Sentences of probation only are included in this table as zero months of imprisonment. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Descriptions of variables used in this table are provided in Appendix A.

Figure C



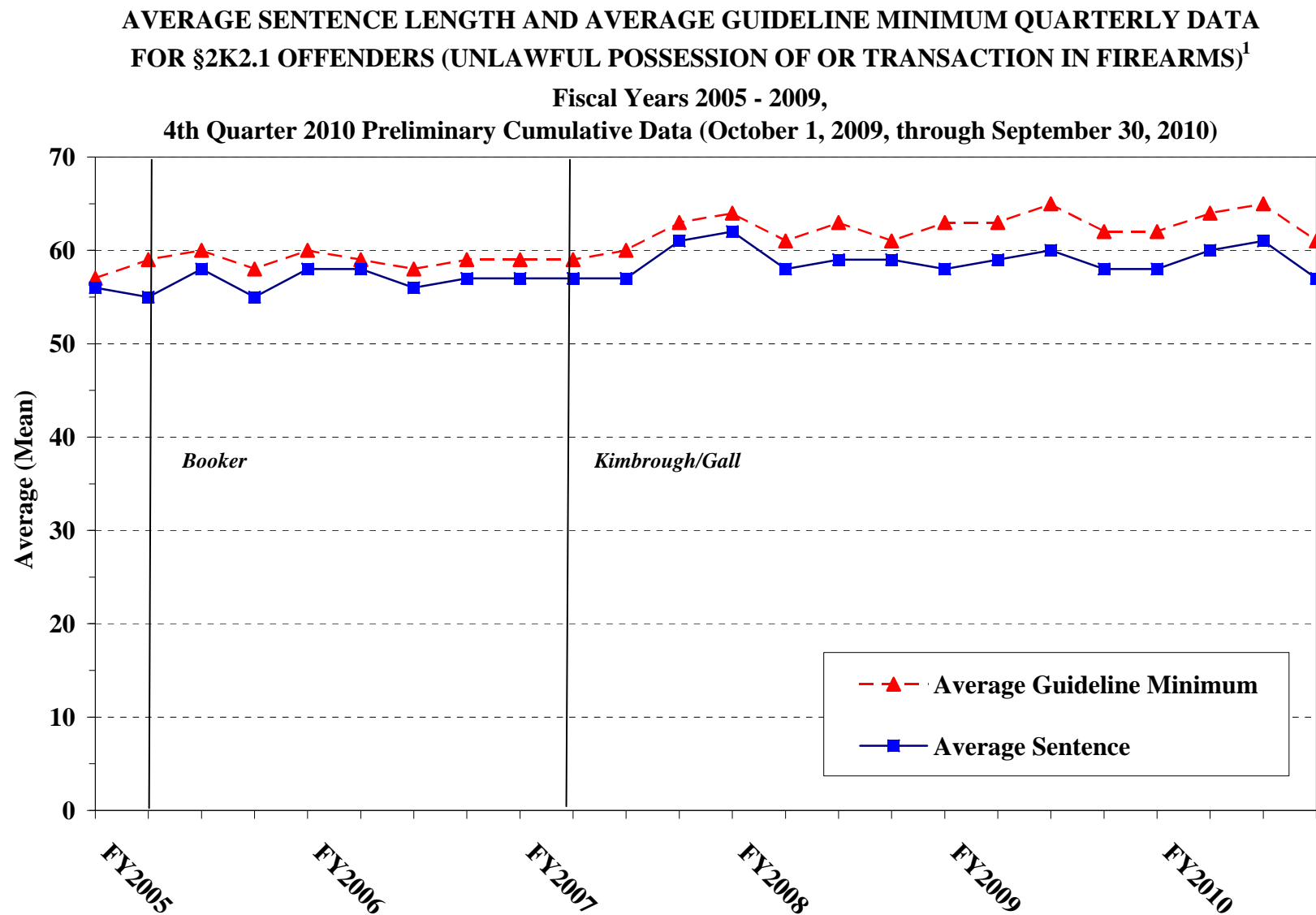
<sup>1</sup> Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure D



<sup>1</sup> Figure includes only cases with a primary sentencing guideline of USSG §2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligation of the United States). Additionally, cases with an amendment year prior to 2001 were excluded from this figure because prior to this time fraud cases were reported separately as USSG §2F1.1. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

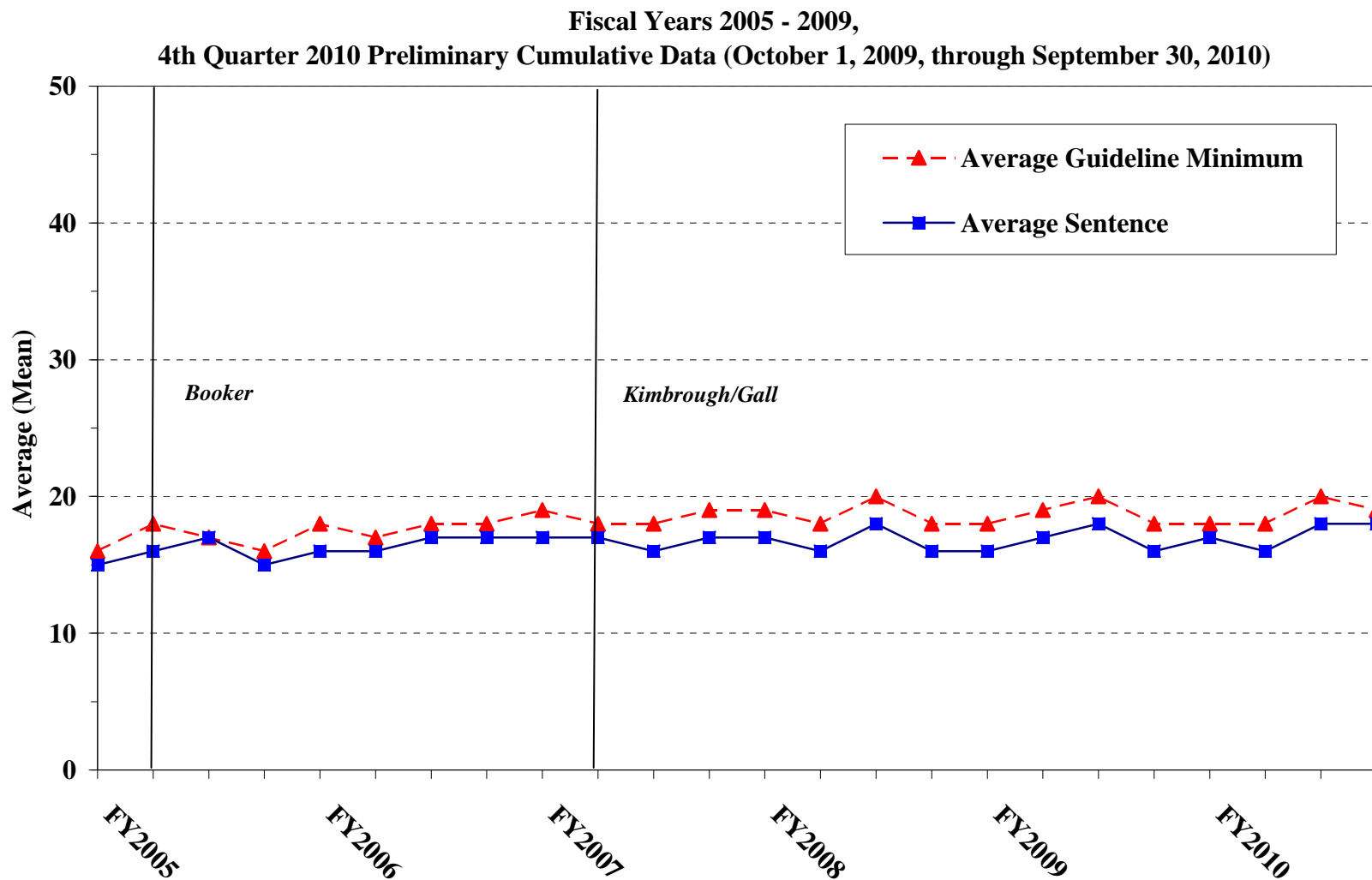
Figure E



<sup>1</sup> Figure includes only cases with a primary sentencing guideline of USSG §2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure F

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM  
QUARTERLY DATA FOR §2L1.1 OFFENDERS (ALIEN SMUGGLING)<sup>1</sup>**



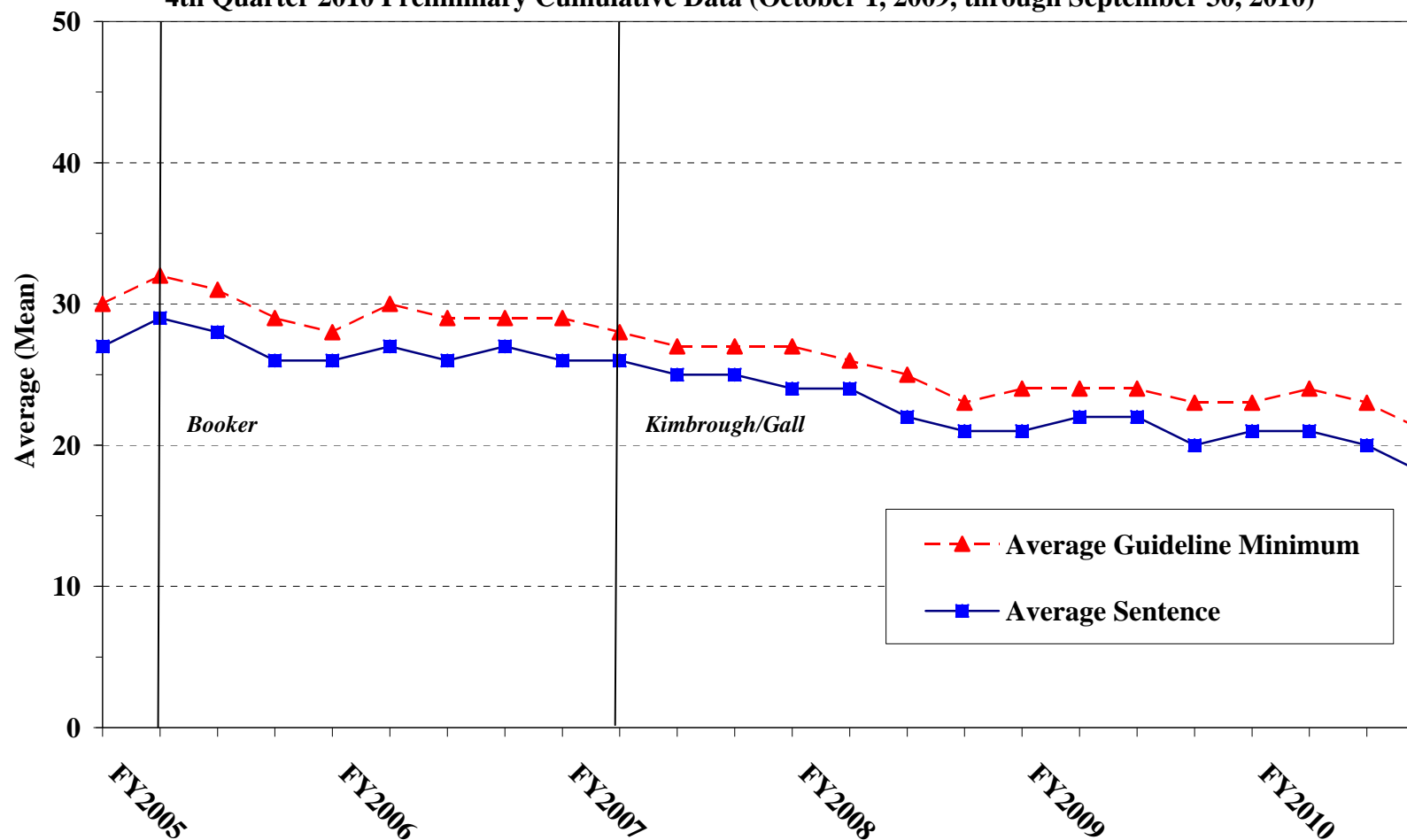
<sup>1</sup> Figure includes only cases with a primary sentencing guideline of USSG §2L1.1 (Smuggling, Transporting, or Harboring an Unlawful Alien). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure G

**AVERAGE SENTENCE LENGTH AND AVERAGE GUIDELINE MINIMUM QUARTERLY DATA FOR  
§2L1.2 OFFENDERS (UNLAWFUL ENTERING OR REMAINING IN THE UNITED STATES)<sup>1</sup>**

**Fiscal Years 2005 - 2009,**

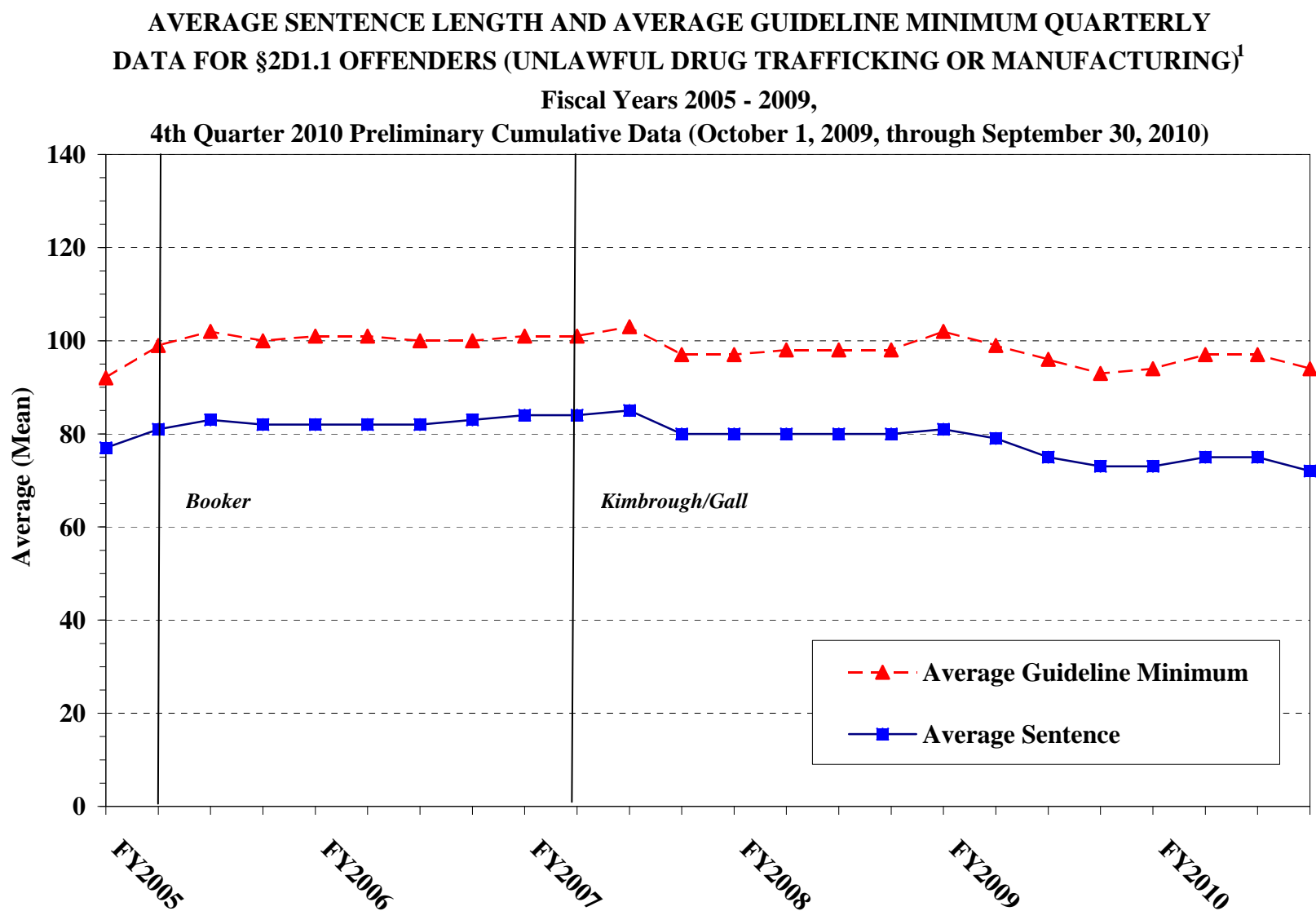
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**



<sup>1</sup> Figure includes only cases with a primary sentencing guideline of USSG §2L1.2. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

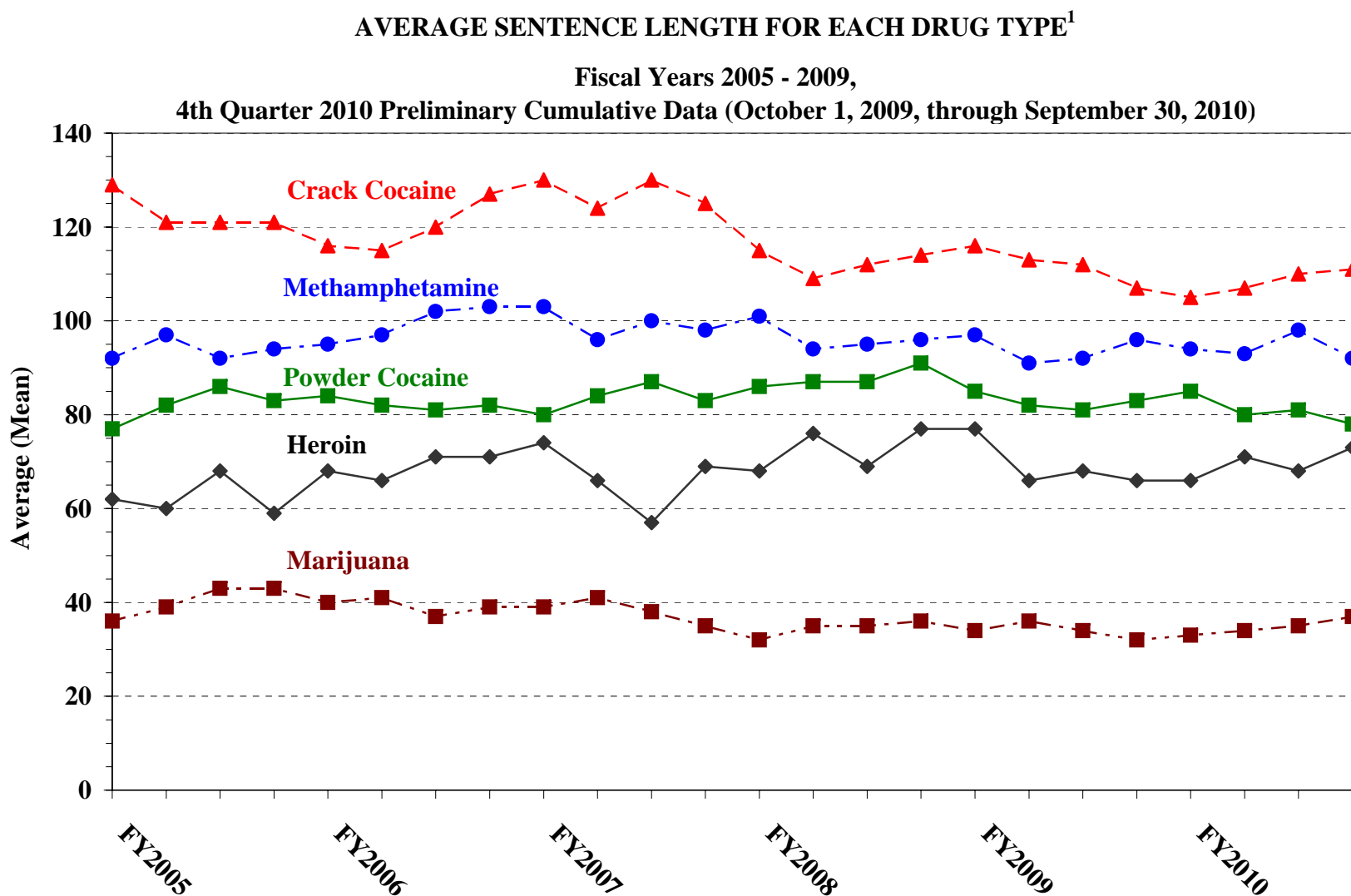
SOURCE: U.S. Sentencing Commission, 2005 - 2009 Datafiles, USSCFY05 - USSCFY09, and Preliminary Data from USSCFY10 (October 1, 2009, through September 30, 2010).

Figure H



<sup>1</sup> Figure includes only cases with a primary sentencing guideline of USSG §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy). Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

Figure I



<sup>1</sup> Only cases sentenced under USSG §§2D1.1 (Drug Trafficking), 2D1.2 (Protected Locations), 2D1.5 (Continuing Criminal Enterprise), 2D1.6 (Use of Communication Facility), 2D1.8 (Rent/Manage Drug Establishment), or 2D2.1 (Simple Possession) are depicted in this figure. Figure includes only cases with a primary sentencing guideline of USSG §2D1.1. Cases with guideline minimums of life or probation were included in the guideline minimum average computations as 470 months and zero months, respectively. In turn, cases with sentences of 470 months or greater (including life) or probation were included in the sentence average computations as 470 months and zero months, respectively. In addition, the information presented in this table includes time of confinement as described in USSG §5C1.1. Guideline minimums account for applicable statutory mandatory penalties. Descriptions of variables used in this table are provided in Appendix A.

**WITHIN RANGE CASES: POSITION OF SENTENCE FOR OFFENDERS  
IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

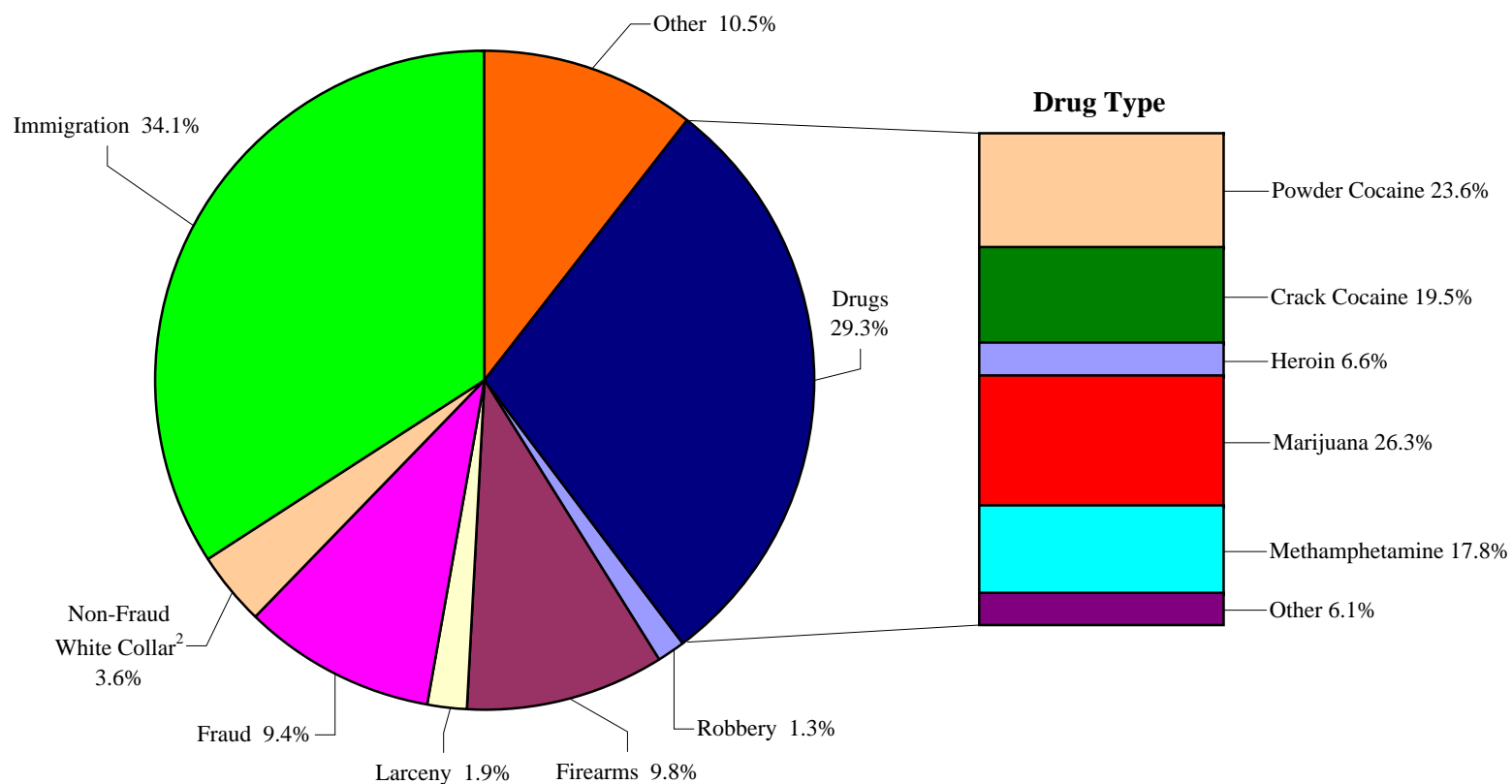
PRIMARY OFFENSE	TOTAL	Guideline Minimum		Lower Half of Range		Midpoint of Range		Upper Half of Range		Guideline Maximum	
		N	%	N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>34,782</b>	<b>17,488</b>	<b>50.3</b>	<b>6,919</b>	<b>19.9</b>	<b>3,396</b>	<b>9.8</b>	<b>3,162</b>	<b>9.1</b>	<b>3,817</b>	<b>11.0</b>
Murder	22	9	40.9	5	22.7	1	4.5	6	27.3	1	4.5
Manslaughter	35	13	37.1	2	5.7	8	22.9	1	2.9	11	31.4
Kidnapping/Hostage Taking	14	7	50.0	3	21.4	0	0.0	2	14.3	2	14.3
Sexual Abuse	234	105	44.9	40	17.1	20	8.5	18	7.7	51	21.8
Assault	281	114	40.6	34	12.1	34	12.1	40	14.2	59	21.0
Robbery	585	290	49.6	101	17.3	47	8.0	56	9.6	91	15.6
Arson	25	9	36.0	5	20.0	1	4.0	3	12.0	7	28.0
Drugs - Trafficking	8,972	5,977	66.6	1,434	16.0	676	7.5	382	4.3	503	5.6
Drugs - Communication Facility	99	67	67.7	13	13.1	3	3.0	3	3.0	13	13.1
Drugs - Simple Possession	162	115	71.0	23	14.2	10	6.2	4	2.5	10	6.2
Firearms	4,004	2,136	53.3	582	14.5	382	9.5	322	8.0	582	14.5
Burglary/B&E	18	4	22.2	1	5.6	4	22.2	4	22.2	5	27.8
Auto Theft	46	26	56.5	6	13.0	3	6.5	3	6.5	8	17.4
Larceny	755	533	70.6	84	11.1	50	6.6	28	3.7	60	7.9
Fraud	3,121	1,757	56.3	474	15.2	280	9.0	222	7.1	388	12.4
Embezzlement	270	200	74.1	30	11.1	10	3.7	9	3.3	21	7.8
Forgery/Counterfeiting	526	259	49.2	80	15.2	55	10.5	48	9.1	84	16.0
Bribery	69	41	59.4	15	21.7	5	7.2	2	2.9	6	8.7
Tax	195	116	59.5	33	16.9	8	4.1	8	4.1	30	15.4
Money Laundering	241	157	65.1	39	16.2	20	8.3	9	3.7	16	6.6
Racketeering/Extortion	184	116	63.0	31	16.8	6	3.3	11	6.0	20	10.9
Gambling/Lottery	36	28	77.8	6	16.7	0	0.0	0	0.0	2	5.6
Civil Rights	23	11	47.8	3	13.0	3	13.0	2	8.7	4	17.4
Immigration	12,659	4,028	31.8	3,596	28.4	1,593	12.6	1,854	14.6	1,588	12.5
Pornography/Prostitution	697	415	59.5	96	13.8	51	7.3	57	8.2	78	11.2
Prison Offenses	281	138	49.1	47	16.7	43	15.3	13	4.6	40	14.2
Administration of Justice Offenses	420	257	61.2	45	10.7	32	7.6	26	6.2	60	14.3
Environmental/Wildlife	62	50	80.6	5	8.1	1	1.6	3	4.8	3	4.8
National Defense	18	14	77.8	2	11.1	1	5.6	0	0.0	1	5.6
Antitrust	2	1	50.0	0	0.0	1	50.0	0	0.0	0	0.0
Food & Drug	36	32	88.9	0	0.0	1	2.8	2	5.6	1	2.8
Other Miscellaneous Offenses	690	463	67.1	84	12.2	47	6.8	24	3.5	72	10.4

<sup>1</sup> Of the 80,854 cases, 43,103 were sentenced within the applicable guideline range. Of those, 37,222 had complete guideline application information. An additional 2,440 cases were excluded due to several logical criteria. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

**Figure J**

**DISTRIBUTION OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**



<sup>1</sup> Of the 80,854 guideline cases, 24,340 were drug cases. Of these, 937 were excluded due to missing drug type. The Drug category includes the following offense types: trafficking, use of a communication facility, and simple possession. Descriptions of variables used in this figure are provided in Appendix A.

<sup>2</sup> The Non-Fraud White Collar category includes the following offense types: embezzlement, forgery/counterfeiting, bribery, money laundering, and tax.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

Table 21

**GUIDELINE OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>****4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

<b>PRIMARY OFFENSE</b>	<b>N</b>	<b>%</b>
<b>TOTAL</b>	<b>80,854</b>	<b>100.0</b>
<b>Murder</b>	64	0.1
<b>Manslaughter</b>	62	0.1
<b>Kidnapping/Hostage Taking</b>	39	0.0
<b>Sexual Abuse</b>	474	0.6
<b>Assault</b>	608	0.8
<b>Robbery</b>	1,069	1.3
<b>Arson</b>	71	0.1
<b>Drugs - Trafficking</b>	23,000	28.4
<b>Drugs - Communication Facility</b>	506	0.6
<b>Drugs - Simple Possession</b>	834	1.0
<b>Firearms</b>	7,843	9.7
<b>Burglary/B&amp;E</b>	35	0.0
<b>Auto Theft</b>	91	0.1
<b>Larceny</b>	1,528	1.9
<b>Fraud</b>	7,534	9.3
<b>Embezzlement</b>	425	0.5
<b>Forgery/Counterfeiting</b>	859	1.1
<b>Bribery</b>	219	0.3
<b>Tax</b>	632	0.8
<b>Money Laundering</b>	778	1.0
<b>Racketeering/Extortion</b>	650	0.8
<b>Gambling/Lottery</b>	72	0.1
<b>Civil Rights</b>	59	0.1
<b>Immigration</b>	27,256	33.7
<b>Pornography/Prostitution</b>	1,993	2.5
<b>Prison Offenses</b>	415	0.5
<b>Administration of Justice Offenses</b>	930	1.2
<b>Environmental/Wildlife</b>	164	0.2
<b>National Defense</b>	65	0.1
<b>Antitrust</b>	16	0.0
<b>Food &amp; Drug</b>	81	0.1
<b>Other Miscellaneous Offenses</b>	2,482	3.1

<sup>1</sup> Descriptions of variables used in this table are provided in Appendix A.

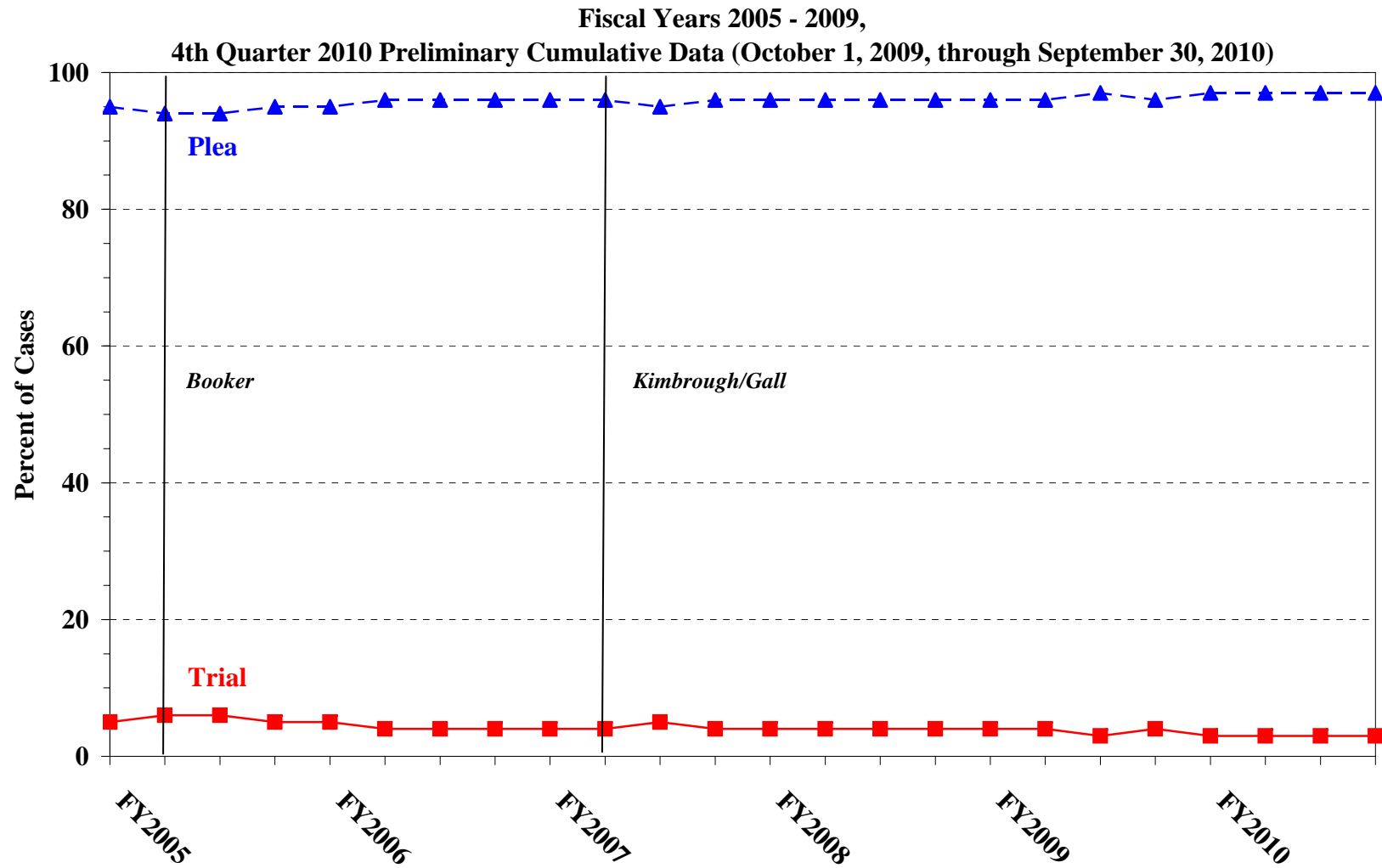
Table 22

**GUILTY PLEAS AND TRIALS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	TOTAL	PLEA		TRIAL	
		N	%	N	%
<b>TOTAL</b>	<b>80,851</b>	<b>78,212</b>	<b>96.7</b>	<b>2,639</b>	<b>3.3</b>
Murder	64	43	67.2	21	32.8
Manslaughter	62	58	93.5	4	6.5
Kidnapping/Hostage Taking	39	36	92.3	3	7.7
Sexual Abuse	474	419	88.4	55	11.6
Assault	608	548	90.1	60	9.9
Robbery	1,069	1,028	96.2	41	3.8
Arson	71	63	88.7	8	11.3
Drugs - Trafficking	23,000	22,168	96.4	832	3.6
Drugs - Communication Facility	506	505	99.8	1	0.2
Drugs - Simple Possession	834	815	97.7	19	2.3
Firearms	7,843	7,350	93.7	493	6.3
Burglary/B&E	35	35	100.0	0	0.0
Auto Theft	91	89	97.8	2	2.2
Larceny	1,528	1,489	97.4	39	2.6
Fraud	7,534	7,155	95.0	379	5.0
Embezzlement	425	407	95.8	18	4.2
Forgery/Counterfeiting	859	852	99.2	7	0.8
Bribery	219	199	90.9	20	9.1
Tax	632	571	90.3	61	9.7
Money Laundering	778	724	93.1	54	6.9
Racketeering/Extortion	650	601	92.5	49	7.5
Gambling/Lottery	72	69	95.8	3	4.2
Civil Rights	59	49	83.1	10	16.9
Immigration	27,256	27,082	99.4	174	0.6
Pornography/Prostitution	1,993	1,893	95.0	100	5.0
Prison Offenses	415	410	98.8	5	1.2
Administration of Justice Offenses	930	876	94.2	54	5.8
Environmental/Wildlife	164	153	93.3	11	6.7
National Defense	65	60	92.3	5	7.7
Antitrust	16	15	93.8	1	6.3
Food & Drug	81	77	95.1	4	4.9
Other Miscellaneous Offenses	2,479	2,373	95.7	106	4.3

<sup>1</sup> Of the 80,854 cases, three were excluded due to missing information on mode of conviction. Descriptions of variables used in this table are provided in Appendix A.

Figure K

QUARTERLY DATA FOR GUILTY PLEAS AND TRIALS<sup>1</sup>

<sup>1</sup> Descriptions of variables used in this table are provided in Appendix A.

Table 23

**RACE OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	TOTAL	WHITE		BLACK		HISPANIC		OTHER	
		N	%	N	%	N	%	N	%
<b>TOTAL</b>	<b>73,212</b>	<b>20,378</b>	<b>27.8</b>	<b>15,249</b>	<b>20.8</b>	<b>34,975</b>	<b>47.8</b>	<b>2,610</b>	<b>3.6</b>
<b>Murder</b>	<b>63</b>	18	28.6	6	9.5	7	11.1	32	50.8
<b>Manslaughter</b>	<b>62</b>	1	1.6	4	6.5	8	12.9	49	79.0
<b>Kidnapping/Hostage Taking</b>	<b>38</b>	7	18.4	6	15.8	23	60.5	2	5.3
<b>Sexual Abuse</b>	<b>473</b>	218	46.1	59	12.5	38	8.0	158	33.4
<b>Assault</b>	<b>534</b>	143	26.8	107	20.0	74	13.9	210	39.3
<b>Robbery</b>	<b>1,063</b>	474	44.6	424	39.9	127	11.9	38	3.6
<b>Arson</b>	<b>71</b>	42	59.2	10	14.1	4	5.6	15	21.1
<b>Drugs - Trafficking</b>	<b>22,881</b>	6,008	26.3	6,043	26.4	10,097	44.1	733	3.2
<b>Drugs - Communication Facility</b>	<b>502</b>	121	24.1	188	37.5	173	34.5	20	4.0
<b>Drugs - Simple Possession</b>	<b>253</b>	139	54.9	52	20.6	52	20.6	10	4.0
<b>Firearms</b>	<b>7,783</b>	2,266	29.1	3,896	50.1	1,409	18.1	212	2.7
<b>Burglary/B&amp;E</b>	<b>33</b>	4	12.1	4	12.1	2	6.1	23	69.7
<b>Auto Theft</b>	<b>91</b>	46	50.5	17	18.7	26	28.6	2	2.2
<b>Larceny</b>	<b>1,257</b>	628	50.0	402	32.0	149	11.9	78	6.2
<b>Fraud</b>	<b>6,588</b>	3,104	47.1	2,006	30.4	1,134	17.2	344	5.2
<b>Embezzlement</b>	<b>396</b>	233	58.8	84	21.2	35	8.8	44	11.1
<b>Forgery/Counterfeiting</b>	<b>847</b>	379	44.7	316	37.3	133	15.7	19	2.2
<b>Bribery</b>	<b>215</b>	103	47.9	55	25.6	38	17.7	19	8.8
<b>Tax</b>	<b>623</b>	414	66.5	93	14.9	68	10.9	48	7.7
<b>Money Laundering</b>	<b>753</b>	276	36.7	112	14.9	294	39.0	71	9.4
<b>Racketeering/Extortion</b>	<b>639</b>	212	33.2	194	30.4	197	30.8	36	5.6
<b>Gambling/Lottery</b>	<b>71</b>	55	77.5	7	9.9	5	7.0	4	5.6
<b>Civil Rights</b>	<b>56</b>	38	67.9	9	16.1	9	16.1	0	0.0
<b>Immigration</b>	<b>23,165</b>	2,451	10.6	429	1.9	20,140	86.9	145	0.6
<b>Pornography/Prostitution</b>	<b>1,982</b>	1,709	86.2	95	4.8	134	6.8	44	2.2
<b>Prison Offenses</b>	<b>384</b>	100	26.0	116	30.2	129	33.6	39	10.2
<b>Administration of Justice Offenses</b>	<b>883</b>	359	40.7	224	25.4	243	27.5	57	6.5
<b>Environmental/Wildlife</b>	<b>115</b>	88	76.5	5	4.3	7	6.1	15	13.0
<b>National Defense</b>	<b>62</b>	20	32.3	5	8.1	28	45.2	9	14.5
<b>Antitrust</b>	<b>13</b>	11	84.6	0	0.0	0	0.0	2	15.4
<b>Food &amp; Drug</b>	<b>66</b>	47	71.2	1	1.5	8	12.1	10	15.2
<b>Other Miscellaneous Offenses</b>	<b>1,250</b>	664	53.1	280	22.4	184	14.7	122	9.8

<sup>1</sup> Of the 80,854 cases, 7,642 were excluded due to missing information on race. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

Table 24

**GENDER OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	TOTAL	MALE		FEMALE	
		N	%	N	%
<b>TOTAL</b>	<b>78,481</b>	<b>68,356</b>	<b>87.1</b>	<b>10,125</b>	<b>12.9</b>
Murder	64	58	90.6	6	9.4
Manslaughter	62	50	80.6	12	19.4
Kidnapping/Hostage Taking	39	32	82.1	7	17.9
Sexual Abuse	474	455	96.0	19	4.0
Assault	586	524	89.4	62	10.6
Robbery	1,066	960	90.1	106	9.9
Arson	71	67	94.4	4	5.6
Drugs - Trafficking	22,983	20,099	87.5	2,884	12.5
Drugs - Communication Facility	506	415	82.0	91	18.0
Drugs - Simple Possession	667	537	80.5	130	19.5
Firearms	7,834	7,580	96.8	254	3.2
Burglary/B&E	35	34	97.1	1	2.9
Auto Theft	91	83	91.2	8	8.8
Larceny	1,403	845	60.2	558	39.8
Fraud	7,494	5,137	68.5	2,357	31.5
Embezzlement	419	176	42.0	243	58.0
Forgery/Counterfeiting	855	654	76.5	201	23.5
Bribery	219	174	79.5	45	20.5
Tax	629	505	80.3	124	19.7
Money Laundering	776	597	76.9	179	23.1
Racketeering/Extortion	648	592	91.4	56	8.6
Gambling/Lottery	71	62	87.3	9	12.7
Civil Rights	59	52	88.1	7	11.9
Immigration	25,659	23,783	92.7	1,876	7.3
Pornography/Prostitution	1,991	1,961	98.5	30	1.5
Prison Offenses	412	371	90.0	41	10.0
Administration of Justice Offenses	920	647	70.3	273	29.7
Environmental/Wildlife	155	146	94.2	9	5.8
National Defense	64	54	84.4	10	15.6
Antitrust	15	15	100.0	0	0.0
Food & Drug	76	57	75.0	19	25.0
Other Miscellaneous Offenses	2,138	1,634	76.4	504	23.6

<sup>1</sup> Of the 80,854 cases, 2,373 were excluded due to missing information on gender. Descriptions of variables used in this table are provided in Appendix

Table 25

**AGE, RACE, AND GENDER OF OFFENDERS<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

Gender and Age	White		Black		Hispanic		Other	
	N	%	N	%	N	%	N	%
<b>Males</b>	<b>16,948</b>	<b>100.0</b>	<b>13,236</b>	<b>100.0</b>	<b>31,986</b>	<b>100.0</b>	<b>2,120</b>	<b>100.0</b>
<b>Under 21</b>	393	2.3	393	3.0	1,264	4.0	74	3.5
<b>21 - 25</b>	1,780	10.5	2,193	16.6	5,346	16.7	346	16.3
<b>26 - 30</b>	2,438	14.4	3,064	23.1	6,737	21.1	398	18.8
<b>31 - 35</b>	2,543	15.0	2,613	19.7	6,603	20.6	357	16.8
<b>36 - 40</b>	2,340	13.8	2,072	15.7	4,996	15.6	269	12.7
<b>41 - 50</b>	3,879	22.9	1,971	14.9	5,276	16.5	433	20.4
<b>Over 50</b>	3,575	21.1	930	7.0	1,764	5.5	243	11.5
<b>Females</b>	<b>3,417</b>	<b>100.0</b>	<b>2,007</b>	<b>100.0</b>	<b>2,957</b>	<b>100.0</b>	<b>487</b>	<b>100.0</b>
<b>Under 21</b>	102	3.0	38	1.9	153	5.2	14	2.9
<b>21 - 25</b>	437	12.8	302	15.0	502	17.0	61	12.5
<b>26 - 30</b>	546	16.0	385	19.2	579	19.6	72	14.8
<b>31 - 35</b>	449	13.1	345	17.2	507	17.1	69	14.2
<b>36 - 40</b>	504	14.7	297	14.8	413	14.0	74	15.2
<b>41 - 50</b>	783	22.9	416	20.7	562	19.0	120	24.6
<b>Over 50</b>	596	17.4	224	11.2	241	8.2	77	15.8

<sup>1</sup> Of the 80,854 cases, 7,696 were excluded due to one or more of the following reasons: missing race (7,642), missing gender (2,373), or missing age (490). Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

Table 26

**CITIZENSHIP OF OFFENDERS IN EACH PRIMARY OFFENSE CATEGORY<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

PRIMARY OFFENSE	TOTAL	U.S. CITIZEN		NON-U.S. CITIZEN	
		N	%	N	%
<b>TOTAL</b>	<b>78,433</b>	<b>41,567</b>	<b>53.0</b>	<b>36,866</b>	<b>47.0</b>
<b>Murder</b>	<b>64</b>	58	90.6	6	9.4
<b>Manslaughter</b>	<b>62</b>	60	96.8	2	3.2
<b>Kidnapping/Hostage Taking</b>	<b>38</b>	22	57.9	16	42.1
<b>Sexual Abuse</b>	<b>473</b>	454	96.0	19	4.0
<b>Assault</b>	<b>539</b>	483	89.6	56	10.4
<b>Robbery</b>	<b>1,064</b>	1,027	96.5	37	3.5
<b>Arson</b>	<b>71</b>	68	95.8	3	4.2
<b>Drugs - Trafficking</b>	<b>22,931</b>	15,890	69.3	7,041	30.7
<b>Drugs - Communication Facility</b>	<b>503</b>	419	83.3	84	16.7
<b>Drugs - Simple Possession</b>	<b>517</b>	297	57.4	220	42.6
<b>Firearms</b>	<b>7,816</b>	7,137	91.3	679	8.7
<b>Burglary/B&amp;E</b>	<b>34</b>	33	97.1	1	2.9
<b>Auto Theft</b>	<b>91</b>	76	83.5	15	16.5
<b>Larceny</b>	<b>1,294</b>	1,198	92.6	96	7.4
<b>Fraud</b>	<b>7,363</b>	5,509	74.8	1,854	25.2
<b>Embezzlement</b>	<b>404</b>	396	98.0	8	2.0
<b>Forgery/Counterfeiting</b>	<b>847</b>	766	90.4	81	9.6
<b>Bribery</b>	<b>218</b>	196	89.9	22	10.1
<b>Tax</b>	<b>624</b>	568	91.0	56	9.0
<b>Money Laundering</b>	<b>764</b>	501	65.6	263	34.4
<b>Racketeering/Extortion</b>	<b>639</b>	542	84.8	97	15.2
<b>Gambling/Lottery</b>	<b>71</b>	66	93.0	5	7.0
<b>Civil Rights</b>	<b>58</b>	56	96.6	2	3.4
<b>Immigration</b>	<b>27,038</b>	1,355	5.0	25,683	95.0
<b>Pornography/Prostitution</b>	<b>1,989</b>	1,921	96.6	68	3.4
<b>Prison Offenses</b>	<b>401</b>	355	88.5	46	11.5
<b>Administration of Justice Offenses</b>	<b>893</b>	714	80.0	179	20.0
<b>Environmental/Wildlife</b>	<b>118</b>	99	83.9	19	16.1
<b>National Defense</b>	<b>64</b>	32	50.0	32	50.0
<b>Antitrust</b>	<b>13</b>	11	84.6	2	15.4
<b>Food &amp; Drug</b>	<b>68</b>	56	82.4	12	17.6
<b>Other Miscellaneous Offenses</b>	<b>1,364</b>	1,202	88.1	162	11.9

<sup>1</sup> Of the 80,854 cases, 2,421 were excluded due to missing citizenship information. Descriptions of variables used in this table are provided in Appendix A.

Table 27

**DOCUMENT SUBMISSION BY EACH CIRCUIT AND DISTRICT<sup>1</sup>**  
**4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement <sup>2</sup>		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
<b>TOTAL</b>	<b>80,854</b>	<b>372,951</b>	<b>80,854</b>	<b>79,118</b>	<b>58,635</b>	<b>21,827</b>	<b>80,718</b>	<b>73,626</b>	<b>7,226</b>
<b>D.C. CIRCUIT</b>	<b>384</b>	<b>1,861</b>	<b>384</b>	<b>374</b>	<b>349</b>	<b>33</b>	<b>383</b>	<b>371</b>	<b>13</b>
District of Columbia	384	1,861	384	374	349	33	383	371	13
<b>FIRST CIRCUIT</b>	<b>1,743</b>	<b>8,125</b>	<b>1,743</b>	<b>1,734</b>	<b>1,227</b>	<b>504</b>	<b>1,740</b>	<b>1,681</b>	<b>62</b>
Maine	169	774	169	169	100	68	168	168	1
Massachusetts	427	1,896	427	422	202	221	427	418	9
New Hampshire	230	1,124	230	230	205	25	230	229	1
Puerto Rico	760	3,615	760	758	630	126	758	709	51
Rhode Island	157	716	157	155	90	64	157	157	0
<b>SECOND CIRCUIT</b>	<b>4,134</b>	<b>19,454</b>	<b>4,134</b>	<b>4,124</b>	<b>3,091</b>	<b>1,025</b>	<b>4,126</b>	<b>3,979</b>	<b>155</b>
Connecticut	406	2,003	406	406	380	25	405	406	0
New York									
Eastern	1,153	5,576	1,153	1,152	971	178	1,153	1,147	6
Northern	490	2,182	490	486	283	201	490	433	57
Southern	1,246	5,605	1,246	1,243	649	590	1,240	1,227	19
Western	662	3,214	662	662	638	24	662	590	72
Vermont	177	874	177	175	170	7	176	176	1
<b>THIRD CIRCUIT</b>	<b>2,927</b>	<b>13,885</b>	<b>2,927</b>	<b>2,910</b>	<b>2,267</b>	<b>645</b>	<b>2,917</b>	<b>2,864</b>	<b>63</b>
Delaware	128	625	128	128	114	14	127	128	0
New Jersey	816	4,012	816	816	751	65	816	813	3
Pennsylvania									
Eastern	920	4,285	920	913	627	293	917	908	12
Middle	494	2,407	494	494	436	58	494	489	5
Western	493	2,202	493	487	282	196	487	453	40
Virgin Islands	76	354	76	72	57	19	76	73	3
<b>FOURTH CIRCUIT</b>	<b>6,672</b>	<b>30,210</b>	<b>6,672</b>	<b>6,472</b>	<b>4,589</b>	<b>2,021</b>	<b>6,657</b>	<b>5,820</b>	<b>852</b>
Maryland	775	3,642	775	719	648	126	774	726	49
North Carolina									
Eastern	762	3,526	762	738	555	202	762	709	53
Middle	531	2,616	531	531	492	39	531	531	0
Western	500	2,350	500	500	350	141	500	500	0
South Carolina	1,236	5,664	1,236	1,229	743	487	1,236	1,220	16
Virginia									
Eastern	1,985	8,107	1,985	1,874	1,011	933	1,971	1,266	719
Western	360	1,743	360	358	308	52	360	357	3
West Virginia									
Northern	282	1,383	282	282	267	15	282	270	12
Southern	241	1,179	241	241	215	26	241	241	0

Table 27 (cont.)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement <sup>2</sup>		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
<b>FIFTH CIRCUIT</b>	<b>19,777</b>	<b>86,961</b>	<b>19,777</b>	<b>19,070</b>	<b>10,872</b>	<b>8,763</b>	<b>19,760</b>	<b>17,482</b>	<b>2,295</b>
Louisiana									
Eastern	<b>400</b>	1,874	400	397	279	121	399	399	1
Middle	<b>201</b>	950	201	201	146	54	201	201	0
Western	<b>386</b>	1,769	386	356	286	98	385	356	30
Mississippi									
Northern	<b>171</b>	827	171	171	148	23	171	166	5
Southern	<b>312</b>	1,526	312	307	288	24	312	307	5
Texas									
Eastern	<b>847</b>	4,158	847	846	776	71	847	842	5
Northern	<b>927</b>	4,357	927	926	652	274	927	925	2
Southern	<b>7,844</b>	36,700	7,844	7,843	5,454	2,374	7,840	7,719	125
Western	<b>8,689</b>	34,800	8,689	8,023	2,843	5,724	8,678	6,567	2,122
<b>SIXTH CIRCUIT</b>	<b>5,473</b>	<b>25,877</b>	<b>5,473</b>	<b>5,431</b>	<b>4,308</b>	<b>1,117</b>	<b>5,467</b>	<b>5,198</b>	<b>275</b>
Kentucky									
Eastern	<b>615</b>	2,988	615	615	553	59	615	590	25
Western	<b>503</b>	2,302	503	500	398	104	502	399	104
Michigan									
Eastern	<b>724</b>	3,540	724	723	651	71	723	719	5
Western	<b>543</b>	2,427	543	541	317	222	541	485	58
Ohio									
Northern	<b>599</b>	2,748	599	594	359	236	599	597	2
Southern	<b>671</b>	3,288	671	668	616	52	671	662	9
Tennessee									
Eastern	<b>840</b>	3,967	840	833	634	202	839	821	19
Middle	<b>303</b>	1,391	303	285	215	63	302	286	17
Western	<b>675</b>	3,226	675	672	565	108	675	639	36
<b>SEVENTH CIRCUIT</b>	<b>3,012</b>	<b>14,418</b>	<b>3,012</b>	<b>3,001</b>	<b>2,399</b>	<b>612</b>	<b>3,009</b>	<b>2,997</b>	<b>15</b>
Illinois									
Central	<b>374</b>	1,704	374	373	211	163	373	373	1
Northern	<b>868</b>	4,084	868	864	621	247	866	865	3
Southern	<b>310</b>	1,438	310	310	203	107	310	305	5
Indiana									
Northern	<b>454</b>	2,231	454	450	422	32	454	451	3
Southern	<b>328</b>	1,602	328	327	293	34	328	326	2
Wisconsin									
Eastern	<b>469</b>	2,324	469	468	450	19	469	468	1
Western	<b>209</b>	1,035	209	209	199	10	209	209	0
<b>EIGHTH CIRCUIT</b>	<b>4,862</b>	<b>23,341</b>	<b>4,862</b>	<b>4,844</b>	<b>3,945</b>	<b>915</b>	<b>4,851</b>	<b>4,839</b>	<b>23</b>
Arkansas									
Eastern	<b>384</b>	1,815	384	383	284	99	382	382	2
Western	<b>257</b>	1,269	257	257	242	15	257	256	1
Iowa									
Northern	<b>341</b>	1,570	341	341	206	135	341	341	0
Southern	<b>455</b>	2,136	455	454	323	131	454	450	5
Minnesota	<b>498</b>	2,459	498	497	471	27	498	495	3
Missouri									
Eastern	<b>1,034</b>	5,129	1,034	1,034	1,004	30	1,026	1,031	3
Western	<b>659</b>	3,057	659	647	435	224	659	657	2
Nebraska	<b>598</b>	2,893	598	597	507	91	598	593	5
North Dakota	<b>234</b>	1,043	234	233	108	126	234	234	0
South Dakota	<b>402</b>	1,970	402	401	365	37	402	400	2

Table 27 (cont.)

CIRCUIT District	Number of Cases	Total Documents	J & C	Statement of Reasons	Plea Agreement <sup>2</sup>		Indictment/ Information	Presentence Report	
		Received	Received	Received	Received	No Written Plea/Trial	Received	Received	Waived
		N	N	N	N	N	N	N	N
<b>NINTH CIRCUIT</b>	<b>17,980</b>	<b>84,898</b>	<b>17,980</b>	<b>17,375</b>	<b>16,405</b>	<b>1,543</b>	<b>17,927</b>	<b>15,211</b>	<b>2,767</b>
Alaska	149	691	149	148	99	50	149	146	3
Arizona	6,045	28,158	6,045	5,486	5,663	371	5,998	4,966	1,079
California									
Central	2,069	10,012	2,069	2,050	1,838	231	2,068	1,987	80
Eastern	976	4,778	976	972	882	88	974	974	2
Northern	843	3,992	843	836	703	135	842	768	75
Southern	4,558	21,276	4,558	4,557	4,338	216	4,558	3,265	1,293
Guam	47	223	47	45	40	7	47	44	3
Hawaii	162	739	162	162	96	65	162	157	5
Idaho	295	1,439	295	294	264	31	295	291	4
Montana	376	1,766	376	375	264	112	376	375	1
Nevada	603	2,901	603	601	495	108	602	600	3
Northern Mariana Islands	23	113	23	23	21	2	23	23	0
Oregon	614	2,999	614	607	576	35	613	589	25
Washington									
Eastern	363	1,747	363	362	309	53	363	350	13
Western	857	4,064	857	857	817	39	857	676	181
<b>TENTH CIRCUIT</b>	<b>6,904</b>	<b>31,963</b>	<b>6,904</b>	<b>6,873</b>	<b>4,673</b>	<b>2,217</b>	<b>6,901</b>	<b>6,612</b>	<b>292</b>
Colorado	524	2,579	524	514	508	16	524	509	15
Kansas	720	3,465	720	704	628	92	720	693	27
New Mexico	3,686	16,825	3,686	3,685	2,096	1,588	3,685	3,673	13
Oklahoma									
Eastern	113	514	113	113	62	51	113	113	0
Northern	155	715	155	155	96	59	154	155	0
Western	410	1,698	410	407	192	209	410	279	131
Utah	883	4,277	883	882	815	65	882	815	68
Wyoming	413	1,890	413	413	276	137	413	375	38
<b>ELEVENTH CIRCUIT</b>	<b>6,986</b>	<b>31,958</b>	<b>6,986</b>	<b>6,910</b>	<b>4,510</b>	<b>2,432</b>	<b>6,980</b>	<b>6,572</b>	<b>414</b>
Alabama									
Middle	236	1,137	236	236	193	43	236	236	0
Northern	412	1,942	412	411	309	101	412	398	14
Southern	305	1,476	305	305	256	49	305	305	0
Florida									
Middle	1,659	7,623	1,659	1,657	990	664	1,659	1,658	1
Northern	393	1,829	393	389	269	123	393	385	8
Southern	2,179	9,991	2,179	2,137	1,356	815	2,176	2,143	36
Georgia									
Middle	400	1,716	400	398	207	192	399	312	88
Northern	695	3,187	695	670	465	223	693	664	31
Southern	707	3,057	707	707	465	222	707	471	236

<sup>1</sup> Descriptions of variables used in this table are provided in Appendix A.

<sup>2</sup> The figures presented in this table regarding Plea Agreement Submission exclude from the analysis 191 cases for which the Commission was unable to determine definitively whether the defendant's guilty plea was entered pursuant to a written plea agreement.

SOURCE: U.S. Sentencing Commission, Preliminary 2010 Datafile, USSCFY10 (October 1, 2009, through September 30, 2010).

Table 28

**RATE OF SUBMISSION OF STATEMENT OF REASONS FORM  
IN EACH CIRCUIT AND DISTRICT  
4th Quarter 2010 Preliminary Cumulative Data (October 1, 2009, through September 30, 2010)**

CIRCUIT District	Total	Form AO 245B <sup>1</sup>		Other Forms <sup>2</sup>		No Form Received	
		N	%	N	%	N	%
<b>TOTAL</b>	<b>80,854</b>	<b>72,343</b>	<b>89.5</b>	<b>6,854</b>	<b>8.5</b>	<b>1,657</b>	<b>2.0</b>
<b>D.C. CIRCUIT</b>	<b>384</b>	<b>384</b>	<b>100.0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0.0</b>
District of Columbia	384	384	100.0	0	0.0	0	0.0
<b>FIRST CIRCUIT</b>	<b>1,743</b>	<b>1,734</b>	<b>99.5</b>	<b>1</b>	<b>0.1</b>	<b>8</b>	<b>0.5</b>
Maine	169	169	100.0	0	0.0	0	0.0
Massachusetts	427	421	98.6	1	0.2	5	1.2
New Hampshire	230	230	100.0	0	0.0	0	0.0
Puerto Rico	760	759	99.9	0	0.0	1	0.1
Rhode Island	157	155	98.7	0	0.0	2	1.3
<b>SECOND CIRCUIT</b>	<b>4,134</b>	<b>4,022</b>	<b>97.3</b>	<b>102</b>	<b>2.5</b>	<b>10</b>	<b>0.2</b>
Connecticut	406	406	100.0	0	0.0	0	0.0
New York							
Eastern	1,153	1,054	91.4	98	8.5	1	0.1
Northern	490	486	99.2	0	0.0	4	0.8
Southern	1,246	1,242	99.7	1	0.1	3	0.2
Western	662	662	100.0	0	0.0	0	0.0
Vermont	177	172	97.2	3	1.7	2	1.1
<b>THIRD CIRCUIT</b>	<b>2,927</b>	<b>2,102</b>	<b>71.8</b>	<b>809</b>	<b>27.6</b>	<b>16</b>	<b>0.5</b>
Delaware	128	128	100.0	0	0.0	0	0.0
New Jersey	816	34	4.2	782	95.8	0	0.0
Pennsylvania							
Eastern	920	914	99.3	0	0.0	6	0.7
Middle	494	494	100.0	0	0.0	0	0.0
Western	493	485	98.4	2	0.4	6	1.2
Virgin Islands	76	47	61.8	25	32.9	4	5.3
<b>FOURTH CIRCUIT</b>	<b>6,672</b>	<b>6,414</b>	<b>96.1</b>	<b>69</b>	<b>1.0</b>	<b>189</b>	<b>2.8</b>
Maryland	775	727	93.8	3	0.4	45	5.8
North Carolina							
Eastern	762	738	96.9	0	0.0	24	3.1
Middle	531	531	100.0	0	0.0	0	0.0
Western	500	500	100.0	0	0.0	0	0.0
South Carolina	1,236	1,229	99.4	0	0.0	7	0.6
Virginia							
Eastern	1,985	1,808	91.1	66	3.3	111	5.6
Western	360	358	99.4	0	0.0	2	0.6
West Virginia							
Northern	282	282	100.0	0	0.0	0	0.0
Southern	241	241	100.0	0	0.0	0	0.0

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B <sup>1</sup>		Other Forms <sup>2</sup>		No Form Received	
		N	%	N	%	N	%
<b>FIFTH CIRCUIT</b>	<b>19,777</b>	<b>14,167</b>	<b>71.6</b>	<b>4,904</b>	<b>24.8</b>	<b>706</b>	<b>3.6</b>
Louisiana							
Eastern	400	397	99.3	0	0.0	3	0.8
Middle	201	201	100.0	0	0.0	0	0.0
Western	386	295	76.4	61	15.8	30	7.8
Mississippi							
Northern	171	171	100.0	0	0.0	0	0.0
Southern	312	306	98.1	1	0.3	5	1.6
Texas							
Eastern	847	846	99.9	0	0.0	1	0.1
Northern	927	925	99.8	2	0.2	0	0.0
Southern	7,844	7,843	100.0	0	0.0	1	0.0
Western	8,689	3,183	36.6	4,840	55.7	666	7.7
<b>SIXTH CIRCUIT</b>	<b>5,473</b>	<b>5,227</b>	<b>95.5</b>	<b>206</b>	<b>3.8</b>	<b>40</b>	<b>0.7</b>
Kentucky							
Eastern	615	615	100.0	0	0.0	0	0.0
Western	503	500	99.4	0	0.0	3	0.6
Michigan							
Eastern	724	724	100.0	0	0.0	0	0.0
Western	543	541	99.6	0	0.0	2	0.4
Ohio							
Northern	599	593	99.0	1	0.2	5	0.8
Southern	671	614	91.5	54	8.0	3	0.4
Tennessee							
Eastern	840	834	99.3	0	0.0	6	0.7
Middle	303	203	67.0	82	27.1	18	5.9
Western	675	603	89.3	69	10.2	3	0.4
<b>SEVENTH CIRCUIT</b>	<b>3,012</b>	<b>2,960</b>	<b>98.3</b>	<b>41</b>	<b>1.4</b>	<b>11</b>	<b>0.4</b>
Illinois							
Central	374	373	99.7	0	0.0	1	0.3
Northern	868	864	99.5	0	0.0	4	0.5
Southern	310	310	100.0	0	0.0	0	0.0
Indiana							
Northern	454	446	98.2	4	0.9	4	0.9
Southern	328	327	99.7	0	0.0	1	0.3
Wisconsin							
Eastern	469	431	91.9	37	7.9	1	0.2
Western	209	209	100.0	0	0.0	0	0.0
<b>EIGHTH CIRCUIT</b>	<b>4,862</b>	<b>4,831</b>	<b>99.4</b>	<b>15</b>	<b>0.3</b>	<b>16</b>	<b>0.3</b>
Arkansas							
Eastern	384	383	99.7	0	0.0	1	0.3
Western	257	257	100.0	0	0.0	0	0.0
Iowa							
Northern	341	341	100.0	0	0.0	0	0.0
Southern	455	455	100.0	0	0.0	0	0.0
Minnesota	498	484	97.2	13	2.6	1	0.2
Missouri							
Eastern	1,034	1,032	99.8	2	0.2	0	0.0
Western	659	648	98.3	0	0.0	11	1.7
Nebraska	598	597	99.8	0	0.0	1	0.2
North Dakota	234	233	99.6	0	0.0	1	0.4
South Dakota	402	401	99.8	0	0.0	1	0.2

Table 28 (cont.)

CIRCUIT District	Total	Form AO 245B <sup>1</sup>		Other Forms <sup>2</sup>		No Form Received	
		N	%	N	%	N	%
<b>NINTH CIRCUIT</b>	<b>17,980</b>	<b>16,826</b>	<b>93.6</b>	<b>596</b>	<b>3.3</b>	<b>558</b>	<b>3.1</b>
Alaska	149	148	99.3	0	0.0	1	0.7
Arizona	6,045	5,525	91.4	0	0.0	520	8.6
California							
Central	2,069	2,054	99.3	1	0.0	14	0.7
Eastern	976	972	99.6	0	0.0	4	0.4
Northern	843	838	99.4	0	0.0	5	0.6
Southern	4,558	4,557	100.0	0	0.0	1	0.0
Guam	47	45	95.7	0	0.0	2	4.3
Hawaii	162	157	96.9	5	3.1	0	0.0
Idaho	295	294	99.7	0	0.0	1	0.3
Montana	376	374	99.5	1	0.3	1	0.3
Nevada	603	602	99.8	0	0.0	1	0.2
Northern Mariana Islands	23	23	100.0	0	0.0	0	0.0
Oregon	614	18	2.9	589	95.9	7	1.1
Washington							
Eastern	363	362	99.7	0	0.0	1	0.3
Western	857	857	100.0	0	0.0	0	0.0
<b>TENTH CIRCUIT</b>	<b>6,904</b>	<b>6,819</b>	<b>98.8</b>	<b>55</b>	<b>0.8</b>	<b>30</b>	<b>0.4</b>
Colorado	524	514	98.1	0	0.0	10	1.9
Kansas	720	703	97.6	1	0.1	16	2.2
New Mexico	3,686	3,685	100.0	0	0.0	1	0.0
Oklahoma							
Eastern	113	113	100.0	0	0.0	0	0.0
Northern	155	155	100.0	0	0.0	0	0.0
Western	410	407	99.3	0	0.0	3	0.7
Utah	883	829	93.9	54	6.1	0	0.0
Wyoming	413	413	100.0	0	0.0	0	0.0
<b>ELEVENTH CIRCUIT</b>	<b>6,986</b>	<b>6,857</b>	<b>98.2</b>	<b>56</b>	<b>0.8</b>	<b>73</b>	<b>1.0</b>
Alabama							
Middle	236	236	100.0	0	0.0	0	0.0
Northern	412	411	99.8	0	0.0	1	0.2
Southern	305	305	100.0	0	0.0	0	0.0
Florida							
Middle	1,659	1,659	100.0	0	0.0	0	0.0
Northern	393	389	99.0	0	0.0	4	1.0
Southern	2,179	2,138	98.1	0	0.0	41	1.9
Georgia							
Middle	400	380	95.0	18	4.5	2	0.5
Northern	695	632	90.9	38	5.5	25	3.6
Southern	707	707	100.0	0	0.0	0	0.0

<sup>1</sup> Cases included in this category are those in which the court submitted Form AO 245B (Revision 06/05) to the Commission. Only cases in which all required pages of this form were submitted with no deletions or substantive changes are included in this category. Form AO 245B was approved by the Executive Committee of the Judicial Conference of the United States in June 2005.

<sup>2</sup> Cases are included in this category for one or more of the following reasons: one or more of the required pages of Form AO 245B (Revision 06/05) were missing; deletions or substantive changes were made in Form AO 245B (Revision 06/05) that prevented the USSC from collecting the information required to be submitted by 18 U.S.C. §3553(c); the outdated version of Form AO 245B was submitted; or a unique, district created, or modified form was submitted.

## Appendix A

### Descriptions of Datafiles and Variables

#### Introduction

Federal courts are required to forward to the Commission sentencing documentation on all offenders sentenced under the Sentencing Reform Act of 1984 (SRA), except in cases that solely involve petty offenses. Standard information on each case is extracted from sentencing documents received and computerized for analysis.

Given the nature of the datafile and reporting requirements, the following are not included: cases initiated but for which no convictions were obtained, offenders convicted for whom no sentences were yet issued, and offenders sentenced but for whom no sentencing documents were submitted to the Commission. Because the Commission collects information only on cases sentenced under the guidelines, information on cases sentenced under prior law (pre-guidelines) during the current fiscal year is not available in this dataset. When cases are sentenced under both prior law and the guidelines, only the guideline relevant information is coded in the dataset.

Note that for all tables, total percentages may not add up to exactly 100 percent due to rounding.

#### Variables

The following section describes the variables used in this report.

##### **Above Guideline Range With *Booker*/18 U.S.C. § 3553**

*Above Guideline Range with Booker/18 U.S.C. § 3553* consist of cases sentenced above the guideline range in which no departure was indicated and in which the court cited *United States v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing of the guideline system.

##### **Age**

The *Age* of the offender on the day of sentencing is calculated using the offender's date of birth as reported in the presentence report and the date of sentencing as reported in the Judgment and Commitment Order.

##### **All Remaining Cases Above Guideline Range**

*All Remaining Cases Above Guideline Range* consist of cases sentenced above the guideline range that could not be classified into any of the other three above the range categories. This category includes cases in which no reason was provided for a sentence above the guideline range.

##### **All Remaining Cases Below Guideline Range**

*All Remaining Cases Below Guideline Range* consist of cases sentenced below the guideline range that could not be classified into any of the other three below the range categories. This category includes cases in which no reason was provided for a sentence below the guideline range.

##### **Average Sentence Length**

Using sentencing information obtained from the Judgment and Commitment Order, *Average Sentence Length* is reported as the mean and median terms of imprisonment ordered (including any months of alternative confinement as defined in §5C1.1). Cases that receive no term of imprisonment (i.e.

probation) are also included in the average. Cases for which a term of imprisonment is ordered but the length is indeterminable are excluded. In most cases for which the exact term is unknown, the Judgment and Commitment Order merely specifies a sentence of time served. Prior to fiscal year 1993, the Commission defined life sentences as 360 months. However, to reflect life expectancy of federal criminal offenders more precisely and to provide more accurate length of imprisonment information, life sentences are now defined as 470 months.

### **Below Guideline Range With *Booker*/18 U.S.C. § 3553**

*Below Guideline Range with Booker/18 U.S.C. § 3553* consist of cases sentenced below the guideline range in which no departure was indicated and in which the court cited *United States v. Booker*, 18 U.S.C. § 3553, or related factors as one of the reasons for sentencing of the guideline system.

### **Circuit**

Information on judicial *Circuit* is generated by computer using the location of the judicial district in which the offender was sentenced.

### **Citizenship Status**

Information on the *Citizenship Status* of offenders is obtained from the presentence report. Offenders are categorized as one of the following: “U.S. citizen,” “resident alien,” “illegal alien,” and “non-U.S. citizen, alien status unknown.” The latter three categories are collapsed into the category of “non-U.S. citizen.”

### **Degree of Decrease**

*Degree of Decrease* is calculated based on the difference between the length of imprisonment (not including any months of alternative confinement as defined in §5C1.1) and the guideline minimum for the following categories of below range cases: departures below the guideline range, departures below the guideline range with *Booker*/18 U.S.C. § 3553, below the guideline range with *Booker*/18 U.S.C. § 3553, all other below range cases, §5K1.1 substantial assistance cases, and §5K3.1 early disposition program cases, and other government sponsored cases. Life sentences, and cases where the guideline minimum is zero months or life are all excluded from all degree of decrease calculations due to the logical difficulty in calculating a decrease from these values.

### **Degree of Increase**

*Degree of Increase* is calculated based on the difference between the guideline maximum and the length of imprisonment (not including any months of alternative confinement as defined in §5C1.1) for the following categories of above range cases: departures above the guideline range, departures above the guideline range with *Booker*/18 U.S.C. § 3553, above the guideline range with *Booker*/18 U.S.C. § 3553, and all other above range cases. Life sentences, sentences of probation, and cases where the guideline minimum is life are all excluded from all degree of increase calculations due to the logical difficulty in calculating an increase from these values.

### **District**

Information on the judicial *District* in which sentencing occurred is obtained from the Judgment and Commitment Order.

### **Document Submission Rates**

Five documents are represented in the document submission rate table: Judgment and Commitment Order (J&C), Presentence Report (PSR), Statement of Reasons (SOR), Indictment/Information (Ind), and Plea Agreements (Plea). The J&C and PSR generally are submitted in a standardized format. PSRs waived by

the court are indicated in a separate column. Standardized forms for the Statement of Reasons are most frequently submitted; however, transcripts or partial transcripts from the sentencing hearing are also included as *Statement of Reasons Received*. Cases in which the Commission was unable to determine definitively whether the offender's guilty plea was entered pursuant to a written agreement are excluded from the Plea Agreement totals.

### **Downward Departure From Guideline Range**

*Downward Departure from Guideline Range* consist of cases with downward departures in which the court did not indicate as a reason either *United States v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

### **Downward Departure With *Booker*/18 U.S.C. § 3553**

*Downward Departure with Booker/18 U.S.C. § 3553* consist of cases sentenced below the guideline range in which the court indicated both a departure (see Downward Departure From Guideline Range) and a reference to either *United States v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

### **Drug Offense Guideline**

*Drug Offense Guideline* information is obtained from the presentence report and is based on the guidelines in USSG Chapter Two, Part D. The six guidelines featured in the tables (§2D1.1, §2D1.2, §2D1.5, §2D1.6, §2D1.8, and §2D2.1) represent the vast majority of drug cases.

### **Drug Type**

Information on *Drug Type* is obtained from the Judgment and Commitment Order or the presentence report. It is recorded only if at least one of the statutes of conviction recorded by the Commission is a title 21 U.S. Code offense or a non-title 21 offense when the underlying conduct involves a controlled substance. Information about type of drug in the text and tables is derived from the primary drug type (*i.e.*, the type that produces the highest base offense level). The category *Marijuana* includes Hashish and Hashish oil. The category *Methamphetamine* includes pure (actual) methamphetamine, "ICE", methamphetamine mixture, and methamphetamine precursors (specifically including ephedrine and pseudoephedrine). ("ICE" has been included in the methamphetamine category since FY1996). All drug types not listed separately in this report are collapsed into the "other" drug category.

### **Education**

Information on education of the offender is obtained from the presentence report and is collapsed into general categories. Technical, military, and vocational training as well as course work at community colleges are included in the *Some College* category. A general equivalency degree (GED) is included in the *High School Graduate* category.

### **Gender**

*Gender* of the offender is obtained from the presentence report or probation office.

### **Government Sponsored**

Government sponsorship of a departure is determined by a yearly case review by USSC staff of both the reasons for departure and the coding by USSC staff of any indication of government sponsorship as indicated on the Statement of Reasons. The SOR form AO245B version 12/03 and 06/05 have specific check-boxes to indicate the origins of the departure, but cases which do not use this form may also indicate in writing the origins of the departure. Additionally, all cases with one or more of the following

reasons were classified as being sponsored by the government regardless of whether the SOR indicated sponsorship: pursuant to a plea agreement (binding, non-binding, or unknown), fast track, savings to the government, early plea, deportation, waiver of indictment and/or appeal, other government motion, global disposition, due to stipulations, facilitated early release of a material witness, joint recommendation, and large number of immigration cases. Note that since the USSC reviews the reasons on a yearly basis this list might be modified slightly from year to year. Unless otherwise broken out in the table or chart, this category also includes cases with §5K3.1 Early Disposition Program (EDP) departures.

### **Guideline Offenders Sentenced**

Each *Guideline Offender Sentenced* or case, as recorded by the USSC, involves a single sentencing event for a single offender. Multiple counts, and even multiple indictments, are considered a single sentencing event if sentenced at the same time by the same judge. A single offender may appear in more than one case if involved in more than one sentencing event during the fiscal year. Co-offenders in the same sentencing will each appear as separate cases.

### **Guideline Sentencing Range**

The *Guideline Sentencing Range* is taken from the Statement of Reasons provided by the sentencing court. Alternatively, if the Statement of Reasons is missing, then the information is taken from the presentence report.

For tables in this report, unless otherwise indicated, the guideline sentencing range does not take into account applicable statutory restrictions on either the maximum or the minimum of the range; therefore, it may differ from the available range, which does take into account the statutory restrictions.

### **Mode of Conviction**

Information on *Mode of Conviction* is obtained from the Judgment and Commitment Order. Offenders sentenced subsequent to a plea of guilty or *nolo contendere* are included in the *Plea* category. Offenders sentenced subsequent to a trial by judge or jury are included in the *Trial* category. Rare cases involving both a plea and a trial are included in the *Plea* category.

### **Outside of the Range Attribution Categories**

All categories replicate the list of checkboxes available on the SOR Form AO245B (Both 12/03 and 06/05). Not all checkbox categories are available in both the departure section and sentences outside the guideline system section on this form and that multiple checkboxes may be indicated in a single case so that totals in a table may exceed the total number of cases. USSC uses these checkboxes in determining government sponsorship: all cases in which one of the pursuant to a plea agreement boxes is indicated are attributed to the government. Additionally cases where a §5K1.1, §5K3.1, or other government motion checkbox was indicated in the pursuant to a motion not in a plea agreement section are also attributed to one of the government sponsored categories. Additionally other types of SOR forms may indicate sponsorship in writing and these attributions are also included in the appropriate category.

### **Position of Sentence**

The *Position of Sentence* describes within-range guideline sentences in terms of their relative positions within their applicable guideline ranges. Only cases with complete information from the Statement of Reasons are used for this table. The *Position of Sentence* is determined by dividing the available range in half. This allows a sentence to fall into one of five distinct categories: the guideline minimum; the exact midpoint of the range; the guideline maximum; the lower-half of the range (when not at the guideline minimum); and the upper-half of the range (when not at the guideline maximum). The “available range”

is the guideline range with applicable statutory restrictions on either the maximum or the minimum of the range taken into account. (For cases in which guideline §5C1.2 was applied, in accordance with the provisions of the guideline, the statutory restrictions on the range are those from 18 U.S.C. § 3553(f).) In cases in which the sentence is located outside the available sentencing range, departure information is provided as reported by the sentencing court. Differences in the number and percentage of cases in each range quarter may differ from other tables presented in this report; this is due to the exclusion of any case missing both complete information from the Statement of Reasons and information on statutory minima and maxima.

### **Primary Offense Category**

Information on *Primary Offense Category* is obtained from the Judgment and Commitment Order. The “primary” offense code for the case is determined to be the offense code applicable for the count of conviction with the highest statutory maximum. If two or more counts are found to have the same statutory maximum, “primary” offense is selected according to which count of conviction has the highest statutory minimum. Finally, in the event of a small number of cases still tied, the offense type that best represented the nature of the criminal behavior is chosen.

For convenience in analysis, a summary variable describing “primary offense category” is derived. This code is generated by grouping similar primary offense codes into a smaller set of categories. Note that the primary offense categories differ between the individual and organizational offender datafiles. Listed below are the offense types that are grouped into each of the primary offense categories used in the individual datafile tables for this report:

*Murder* includes first degree murder, felony with death resulting, second degree murder, and conspiracy to murder (with death resulting).

*Manslaughter* includes both involuntary and voluntary manslaughter.

*Kidnapping/Hostage* includes ransom taking and hostage/kidnapping.

*Sexual Abuse* includes sexual abuse of a minor, sexual abuse of a ward, criminal sexual abuse, and abusive sexual contact.

*Assault* includes attempt to commit murder, assault with intent to murder, threatening communication, aggravated assault, conspiracy with attempt to murder, obstructing or impeding officers, minor assault, and conspiracy that includes assault with attempt to murder.

*Robbery* includes bank robbery, aggravated bank robbery, Hobbs Act robbery, mail robbery, other robbery, and carjacking.

*Arson* also includes damage by explosives.

*Drugs: Trafficking* includes drug distribution/manufacture, drug distribution/manufacture – conspiracy, continuing criminal enterprise, drug distribution – employee under 21, drug distribution near school, drug import/export, drug distribution to person under 21, and establish/rent drug operation.

*Drugs: Communication Facility* includes use of a communication facility in a drug trafficking offense.

*Drugs: Simple Possession* includes distribution of a small amount of marijuana and simple possession.

*Firearms* includes unlawful possession/transportation of firearms or ammunition; possession of guns/explosives on aircraft; unlawful trafficking, etc. in explosives; possession of guns/explosives in federal facility/schools; use of fire or explosives to commit felony; and use of firearms or ammunition during crime.

*Burglary/Breaking & Entering* includes post office burglary, burglary of DEA premises (pharmacy), burglary of other structure, bank burglary, and burglary of a residence.

*Auto Theft* includes auto theft (including parts), receipt/possession of stolen auto or parts, and altered identification numbers/trafficking in altered (auto).

*Larceny* includes bank larceny, theft from benefit plans, other theft – mail/post office, receipt/possession of stolen property (not auto), other theft – property, larceny/theft-mail/post office, larceny/theft – property (not auto), and theft from labor union.

*Fraud* includes odometer laws and regulations, insider trading, and fraud and deceit.

*Embezzlement* includes embezzlement – property, embezzlement from labor unions, embezzlement – mail/post office, embezzlement from benefit plans, and bank embezzlement.

*Forgery/Counterfeiting* includes counterfeit bearer obligations and forgery/counterfeit (non-bearer obligations).

*Bribery* includes payment to obtain office, bribe involving officials, bribery – bank loan/commercial, loan or gratuity to bank examiner, etc., gratuity involving officials, and bribe or gratuity affecting employee plan.

*Tax Offenses* include receipt/trafficking in smuggled property, aid, etc., in tax fraud; fraud – tax returns, statements, etc.; fraud, false statement – perjury; failure to file or pay; tax evasion; evading import duties (smuggle); failure to collect or account for taxes; regulatory offenses – taxes; failure to deposit taxes in trust account; non-payment of taxes; conspiracy to avoid taxes; and offenses relating to withholding statements.

*Money Laundering* includes laundering of monetary instruments, monetary transaction from unlawful activity, failure to file currency report, and failure to report monetary transactions.

*Extortion/Racketeering* includes extortionate extension of credit, blackmail, extortion by force or treat, Hobbs Act extortion, travel in aid of racketeering, crime relating to racketeering, and violent crimes in aid of racketeering.

*Gambling/Lottery* includes engaging in a gambling business, transmission of wagering

information, obstruction to facilitate gambling, and interstate transportation of wagering paraphernalia.

*Civil Rights* includes interference with rights under color of law; force or threats to deny benefits or rights; obstructing an election or registration; manufacture, etc. – eavesdropping device; other deprivations/discrimination; obstructing correspondence; peonage, servitude, and slave trade; intercept communication or eavesdropping; and conspiracy to deprive individual of civil rights.

*Immigration* includes trafficking in U.S. passports; trafficking in entry documents; failure to surrender naturalization certificate; fraudulently acquiring U.S. passports; smuggling, etc.; unlawful alien; fraudulently acquiring entry documents; and unlawfully entering U.S.

*Pornography, Prostitution* includes dealing in obscene matter, transportation of minor for prostitution/sex, transportation for prostitution/sex (adult), sexual exploitation of minors, materials involving sexual exploitation of minors, obscene telephone or broadcasting, and selling or buying children for pornography.

*Offenses In Prisons* includes contraband in prisons, riots in federal facilities, and escape.

*Administration of Justice* includes commission of offense while on release, bribery of a witness, failure to appear by offender, contempt, failure to appear by material witness, obstruction of justice, payment of witness, perjury or subornation of perjury, misprision of a felony, and accessory after the fact.

*Environmental/Fish And Wildlife* includes waste discharge, specially protected fish, wildlife, and plants (waste discharge is presented as a separate offense category in Tables 51 and 52).

*National Defense* includes evasion of export controls and exportation of arms, etc., without license.

*Antitrust* includes bid-rigging, price-fixing, and market allocation agreement.

*Food and Drug* includes false information or tampering with products, tampering to injure business, tampering with risk of death or injury, and violation of regulations involving food, drugs, etc.

*Other Miscellaneous Offenses* includes illegal use of regulatory number – drugs; illegal transfer of drugs; illegal regulatory number to get drugs; drug paraphernalia; forgery/fraud for drugs; dangerous devices to protect drugs; manufacture drugs against quota; endangering life while manufacturing drugs; operate carrier under drugs; endangerment from hazardous/toxic substances; mishandling substances, records, etc.; threat of tampering with public water system; hazardous devices of federal lands; mishandling other pollutants, records, etc.; improper storage of explosives; record keeping violation – explosives; possession of other weapon – on aircraft, in federal facility; failure to report theft of explosives; feloniously mailing injurious articles; transport of hazardous material in commerce; interference with flight crew, other offense

– aboard aircraft; criminal infringement of copyright/trademark; conflict of interest; unauthorized payment; non-drug forfeiture; impersonation; false statement to Employee Act; reporting offenses – labor related; criminal infringement of trademark; unlawful conduct relating to control/cigarettes; trespass; destruction of property; destruction of mail; aircraft piracy; conspiracy to murder (no death, assault, or attempt); conspiracy to commit murder; and all other miscellaneous offenses not previously listed in any of the other categories.

### **Race**

Information on *Race* of the offender is obtained from the presentence report in separate categories of race and ethnicity (*White, Black, Native American or Alaskan Native, and Asian or Pacific Islander*). Ethnicity data indicate whether an offender is of Hispanic origin. (For purposes of this report, offenders whose ethnic background is designated as Hispanic are represented as Hispanic in all tables regardless of racial background.) The *Other* category includes offenders of Native American, Alaskan Native, and Asian or Pacific Islander origin.

### **Type of Guideline Sentence Imposed**

Using sentencing information obtained from the Judgment and Commitment Order, the *Total Receiving Prison* column includes the number of offenders sentenced (and percent of *Total Cases*) who received a commitment to the Bureau of Prisons. This column is the sum of cases in *Prison* and the *Prison/Community Split Sentence* categories.

The *Prison* category includes offenders sentenced to a term of imprisonment only, with no additional conditions of community confinement, home detention or intermittent confinement.

The *Prison/Community Split Sentence* category includes all cases in which offenders received prison and conditions of alternative confinement as defined in USSG §5C1.1. This category includes, but is not limited to, Zone A, Zone B, or Zone C cases receiving prison with additional conditions of a term of community confinement, home detention, or intermittent confinement.

The *Total Receiving Probation* column includes the number of offenders sentenced (and the percent of *Total Cases*) who received a term of probation with or without a condition of community confinement, intermittent confinement, or home detention. This column also represents the total of the *Probation Only* and *Probation and Confinement* categories.

The *Probation Only* column includes the number of offenders who received a term of probation without a condition of community confinement, intermittent confinement, or home detention.

*Probation and Confinement* includes the number of offenders who received a term of probation with a condition of community confinement, intermittent confinement, or home detention.

### **Upward Departure From Guideline Range**

*Upward Departure from Guideline Range* consist of cases with upward departures in which the court did

not indicate as a reason either *United States v. Booker*, 18 U.S.C. § 3553, or a factor or reason specifically prohibited in the provisions, policy statements, or commentary of the *Guidelines Manual*.

### **Upward Departure With *Booker*/18 U.S.C. § 3553**

*Upward Departure with Booker/18 U.S.C. § 3553* consist of cases sentenced above the guideline range in which the court indicated both a departure (see Upward Departure From Guideline Range) and a reference to either *United States v. Booker*, 18 U.S.C. § 3553, or related factors as a reason for sentencing outside of the guideline system.

### **Year**

Information on Year is obtained from the Judgment and Commitment Order. Unless otherwise indicated, the sentencing year is defined as the fiscal year in which the offender was sentenced.

### **Zone**

The *Sentencing Table* is categorized into sentencing *Zones*. Courts may impose various types of punishment as alternatives to imprisonment. Alternative types of punishment include: probation, home detention, community confinement, and intermittent confinement. Imposition of alternative types of punishment is restricted to offenders within specific sentencing zones.

*Zone A:* a guideline range is in Zone A when the minimum term of imprisonment specified is zero months;

*Zone B:* a guideline range is in Zone B when the minimum term of imprisonment specified is at least one but not more than six months;

*Zone C:* a guideline range is in Zone C when the minimum term of imprisonment specified is eight months when criminal history category is four or less, and nine months if the criminal history category is greater than four;

*Zone D:* a guideline range is in Zone D when the minimum term of imprisonment specified is twelve months or more.

See Chapter 5 of the *Guidelines Manual* for a description of alternatives to imprisonment and the conditions under which they are applicable.

**Appendix B:**  
**List of Quarterly Report Tables and Figures**  
**and Comparable FY09 *Sourcebook* Number/Letter**

<b><u>Quarterly Report Tables/Figures</u></b>	<b><u>Comparable <i>Sourcebook</i> Tables/Figures</u></b>
Table 1 .....	Table N
Table 2 .....	Table 26
Table 3 .....	Table 27
Figure A .....	N/A
Figure B .....	N/A
Table 4 .....	N/A
Table 5 .....	Table 28
Table 6 .....	Table 28A
Table 7 .....	Table 30
Table 8 .....	Table 30A
Table 9 .....	Table 31
Table 10 .....	Table 31A
Table 11 .....	Table 31B
Table 12 .....	Table 31C
Table 13 .....	Table 31D
Table 14 .....	Table 32
Table 15 .....	Table 32A
Table 16 .....	Table 32B
Table 17 .....	Table 32C
Table 18 .....	Table 15
Table 19 .....	Table 13
Figure C .....	N/A
Figure D .....	N/A
Figure E .....	N/A
Figure F .....	N/A
Figure G .....	N/A
Figure H .....	N/A
Figure I .....	N/A
Table 20 .....	Table 29
Figure J .....	Figure A
Table 21 .....	Table 3
Table 22 .....	Table 11
Figure K .....	N/A
Table 23 .....	Table 4

Table 24 .....	Table 5
Table 25 .....	Table 7
Table 26 .....	Table 9
Table 27 .....	Tables 1
Table 28 .....	N/A